

**MANUAL FOR OPERATION  
Of  
ADULT DRUG COURTS  
IN  
NEW JERSEY**



Promulgated by:

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## NOTICE

This Manual is intended to provide procedural and operational guidance for New Jersey Judiciary staff in the management of cases within their area of responsibility. The Manual was prepared under the supervision of the Conference of Criminal Presiding Judges, along with the Conference of Criminal Division Managers and the Criminal Practice Division of the Administrative Office of the Courts. It is intended to embody the policies adopted by the New Jersey Supreme Court, the Judicial Council and the Administrative Director of the Courts, but does not itself establish case management policy. It has been approved by the Judicial Council, on the recommendation of the Conference of Criminal Presiding Judges, in order to promote uniform case management statewide and, as such, court staff are required to adhere to its provisions.

While the Manual reflects court policies existing as of the date of its preparation, in the event there is a conflict between the Manual and any statement of policy issued by the Supreme Court, the Judicial Council, or the Administrative Director of the Courts, the statement of policy, rather than this Manual, will be controlling. Other than in that circumstance, however, this manual is binding on court staff.

Statement to Accompany Operations Manuals  
Approved by the Judicial Council, January 27, 2000

## **I. INTRODUCTION<sup>1</sup>**

### **A. BACKGROUND**

A revolution has occurred in the criminal justice system during the past ten years. It began at the grassroots level with a few people who realized that the old approach to the drug using offender - incarceration and more incarceration - wasn't working. As the numbers of accused drug offenders has increased, there simply have not been enough jails and prisons to hold them. Drug abuse is breaking up families, destroying lives and devastating our communities.

It takes a new kind of team, with judges, prosecutors and defense attorneys, supervision and corrections officers, and rehabilitation and treatment providers working together to restore our communities.

### **B. RUNAWAY COST OF INCARCERATION**

Nationally, the problem of drug use and the crime it generates is as great today as it has been in the past. Despite efforts on the scale of waging a war against illegal drug use, the plague is still among us. There is an increasing awareness that simply incarcerating drug offenders has not, and cannot, resolve the underlying problem that caused the criminal activity. The costs of failing to adequately address the problem are staggering. The cost of continuing to build prisons to house offenders has skyrocketed. State budgets are being strained to

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<sup>1</sup> This section was extracted from "DRUG COURTS: A PLAN FOR STATEWIDE IMPLEMENTATION", New Jersey Judiciary, December 2000.

deal with the cost of corrections. The societal cost of continued drug-driven criminal activity can be measured by looking at drug addicted newborns, children in foster care, violence in neighborhoods, unsafe streets and unpaid child support.

New Jersey has seen major increases in the number of arrests generally, the number of arrests in drug cases, especially with the enactment of the "Comprehensive Drug Reform Act of 1986," and the percentage of offenders being sentenced to serve time in state institutions. Data provided by the New Jersey Department of Corrections show:

- ▶ Total inmate population increased by 457 percent from 1977 to 2000.
- ▶ The Corrections budget grew from \$92.3 million in 1980 to \$845.7 million in 1999.
- ▶ More than 42 percent of New Jersey's inmates report an "extreme" problem with drugs.

### **C. IMPACT ON MINORITY COMMUNITIES**

We are arresting more people, sentencing more people and incarcerating more people, but drug use and the crime it generates is still with us despite substantial efforts to eliminate it. Our minority communities are hit the hardest as a disproportionate percentage of inmates are minorities.

- ▶ New Jersey's inmate population is 64% African-American and 18% Hispanic.
- ▶ Early data show that New Jersey's five pilot drug courts address minority concerns as approximately 85 percent of offenders diverted from prison into drug courts are minorities.

#### **D. DRUG COURTS – AN ALTERNATIVE APPROACH**

Drug courts are a highly specialized team process that function within the existing Superior Court structure to address nonviolent drug-related cases. They are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals. Within a cooperative courtroom atmosphere, the judge heads a team of court staff, attorneys, probation officers, substance abuse evaluators, and treatment counselors all working in concert to support and monitor a participant's recovery. Drug court programs are rigorous, requiring intensive supervision based on frequent drug testing and court appearances.

Drug court partnerships develop comprehensive and tightly structured regimens of treatment and recovery services. What is different in drug courts is the continuing oversight and personal involvement of the drug court judge in the treatment process. By closely monitoring participants, the court is able to actively support the recovery process and react swiftly to impose appropriate therapeutic sanctions or to reinstate criminal proceedings when participants cannot comply with the program. Together, the drug court judge, prosecutor, defense attorney and treatment professionals maintain a critical balance of authority, supervision, support, and encouragement.

Drug Courts are special courts for drug-involved offenders. The courts:

- Target offenders who are most likely to benefit from treatment and do not pose a risk to public safety.

- Provide tough and intensive supervision and treatment of offenders soon after arrest.
- Monitor participants' progress and apply swift sanctions for noncompliance.
- Maintain a critical balance of authority, supervision, support, and encouragement.
- Integrate alcohol and drug treatment services with justice system case processing.
- Offer an enhancement to the traditional adversarial court process.

## **E. DRUG COURTS IN THE UNITED STATES**

In **1,124** communities throughout the United States, drug courts are dramatically changing the way the criminal justice system deals with drug-using offenders. Since the first programs opened over a decade ago, more than **226,000** defendants have entered drug court programs.<sup>2</sup>

### **Research shows:<sup>3</sup>**

- ▶ Drug use and criminal behavior are substantially reduced while clients are participating in drug court.
- ▶ Lower criminal behavior continues after program participation.
- ▶ Drug courts generate cost savings from reduced jail/prison use.
- ▶ Drug courts bridge the gap between the court and treatment systems, as well as between the criminal justice system and the community.

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<sup>2</sup> American University Drug Court Clearinghouse and Technical Assistance Project, June 2001.

<sup>3</sup> National Center on Addiction and Substance Abuse, Columbia University, June 1998.

- ▶ Retention rates for drug courts average 67 percent. In contrast, lower retention rates are reported for traditional criminal justice programs.

**More than:<sup>4</sup>**

- ▶ 2,100 drug-free babies have been born due to drug courts with an estimated savings of \$250,000 in reduced medical costs per baby.
- ▶ 3,500+ parents have regained custody of children through drug courts.
- ▶ 4,500+ defendants are re-engaged in child support payments due to drug court participation.
- ▶ 78 percent of drug court graduates have retained or obtained employment.

**F. DRUG COURTS BEGIN IN NEW JERSEY**

In 1997, Camden and Essex Counties received federal implementation grants for what are known as traditional drug courts. Union and Passaic Counties received funding in 1999. The population for this court was nonviolent substance abusing defendants. The program contained no requirement for mandatory inpatient treatment. Rather, treatment was based on the need of the defendant.

In 1997, the Administrative Office of the Courts, in conjunction with the Governor's Advisory Council, the Attorney General's Office, the Department of Health and Senior Services, and the Department of Corrections began a plan for a Drug Court Initiative using state and federal funds. In 1997, Camden and Passaic Counties started drug courts for prison-bound defendants under this initiative. In 1999, similar programs began in Essex, Union and Mercer Counties. The program

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<sup>4</sup> See footnote 2.

was funded using a combination of state and federal funds. Treatment beds were funded using Department of Corrections money. The target population was offenders eligible for sentencing pursuant to N.J.S.A. 2C:35-14.

In May 2000, the Conference of Criminal Presiding Judges recommended that drug courts be established as a "Best Practice" in the Criminal Division. In order to assure equal access, the Presiding Judges recommended that the drug court caseload consist of prison-bound and other cases. In June 2000, the Judicial Council adopted drug courts as a "Best Practice" in the Criminal Division and called for a comprehensive statewide proposal. That proposal entitled "*DRUG COURTS: A PLAN FOR STATEWIDE IMPLEMENTATION*" was developed in December 2000. See Appendix A. Legislation was thereafter enacted in September 2001 to begin implementation of the statewide plan. See L. 2001,c. 243 contained in Appendix B.

## **G. NEW JERSEY DATA**

### **Reports indicate:**

- ▶ More than 2,000 defendants have entered New Jersey's drug court pilots.
- ▶ March, 2002 data reports that approximately 72 percent of participants remain in the program.
- ▶ Reduced jail/prison costs by diverting jail-bed dollars into treatment services.
- ▶ Participants stay in treatment longer and report fewer relapses in comparison to defendants in other criminal justice processes.

- ▶ Families are being rebuilt and babies are being born drug-free from parents who were formerly severely drug-dependent.
- ▶ By partnering the intensive supervision concept with the drug court process, participant compliance with court orders and treatment improve.
- ▶ Greater cooperation and resource sharing among various agencies and institutions results in reduced systems costs and improved public safety.

## **II. IMPLEMENTATION OF DRUG COURTS**

### **A. STATEWIDE PHASE-IN OF COURTS**

Drug Courts will be implemented in all 15 vicinages in a phased-in approach. There are five pilot vicinages with adult<sup>5</sup> drug courts: Camden, Essex, Mercer, Passaic and Union. Five more vicinages added drug courts during Fiscal Year 2002: Bergen, Monmouth, Morris/Sussex, Gloucester/Cumberland/Salem, and Ocean. The five new courts began bringing on staff on January 1, 2002, while funding for treatment became available on April 1, 2002. The final five vicinages will be added in Fiscal Year 2004: Atlantic/Cape May, Burlington, Hudson, Middlesex, and Somerset/Hunterdon/Warren.

### **B. CASELOAD SIZE**

Drug courts, when fully operational statewide, are targeted to handle a total of 1,650 cases each year. The caseload per year for each vicinage will be 110 new cases. Since the primary focus of the funding of this program has been as an alternative to prison, vicinage admissions to drug court will be expected to be split 73% (80 cases) prison-bound, 27% (30 cases) non prison-bound. The new drug courts that began in Fiscal Year 2002 are expected to reach 110 cases after their first complete year of operation.

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<sup>5</sup> Camden and Hudson have operational juvenile drug courts. Mercer and Passaic were recently awarded OJP grants to implement a juvenile drug court.

## **C. DRUG COURT CASE TYPES**

### **1. STATE PRISON-BOUND OFFENDERS**

Prison-bound cases are defined as defendants who, but for the drug court program, would be sentenced to a term of imprisonment in a New Jersey state prison. These offenders must meet all other eligibility criteria. The plea agreement in these cases must clearly indicate that the defendant has been given an alternative offer and must set forth the state prison sentence that was being offered as the alternative to the drug court program, e.g., Drug Court participation or three years in New Jersey State Prison.

### **2. NON PRISON-BOUND OFFENDERS**

Non prison-bound cases are defined as defendants who are facing a maximum exposure of 364 days in a county jail or a non-custodial sentence. These offenders must meet all other eligibility criteria. Any alternate jail sentence offered should be set forth in the plea agreement form. In addition, substance abusing probation violators who have appeared before the original sentencing judge and were found guilty of, or pled guilty to, a violation of probation may be considered for drug court. Individuals terminated from the Pretrial Intervention Program (PTI) who are found to be legally and clinically appropriate may also be considered for drug court upon termination.

### **III. GUIDELINES FOR ADMISSION INTO DRUG COURTS**

Offenders may be eligible for sentencing in drug court either because they fall within the eligibility criteria set forth in N.J.S.A. 2C:35-14, or because they may otherwise be eligible under other sections of the Code of Criminal Justice.

#### **A. Sentencing Pursuant to N.J.S.A. 2C:35-14**

N.J.S.A. 2C:35-14(a) provides an alternative to incarceration for offenders who are subject to a presumption of incarceration pursuant to N.J.S.A. 2C:44-1(d). N.J.S.A. 2C:44-1(d) provides that persons convicted of crimes of the first or second degree, or persons who have been convicted of theft of a motor vehicle or of the unlawful taking of a motor vehicle and who have previously been convicted of either offense, must be sentenced to a term of imprisonment unless the court is of the opinion that imprisonment would be a serious injustice which overrides the need to deter others. Special probation under N.J.S.A. 2C:35-14 is also available to persons convicted under N.J.S.A. 2C:35-7 and persons who previously have been convicted of an offense under N.J.S.A. 2C:35-5(a) or any similar offense. See N.J.S.A. 2C:35-14(d).

##### **1. Statutory Eligibility Criteria under N.J.S.A. 2C:35-14**

An offender is eligible for sentencing under N.J.S.A. 2C:35-14 if the court finds on the record that:

- a. the person has undergone a professional diagnostic assessment to determine whether, and to what extent, the

person is drug or alcohol dependent and would benefit from treatment. Drug or alcohol dependency must be determined by a substance abuse evaluator employed by the court after conducting a diagnostic assessment using the Addiction Severity Index (ASI); and

- b. the person is a drug or alcohol dependent person within the meaning of N.J.S.A. 2C:35-2 and was drug or alcohol dependent at the time of the commission of the present offense; and
- c. the present offense was committed while the person was under the influence of a controlled dangerous substance, controlled substance analog or alcohol or was committed to acquire property or monies in order to support the person's drug or alcohol dependency; and
- d. substance abuse treatment and monitoring will serve to benefit the person by addressing his drug or alcohol dependency and will thereby reduce the likelihood that the person will thereafter commit another offense; and
- e. the person did not possess a firearm at the time of the present offense and did not possess a firearm at the time of any pending criminal charge; and
- f. the person has not been previously convicted on two or more separate occasions of crimes of the first, second or third degree, other than crimes defined in N.J.S.A. 2C:35-10; and
- g. the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, robbery, kidnaping, aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and
- h. a suitable treatment facility licensed and approved by the Department of Health and Senior Services is able and has agreed to provide appropriate treatment services in accordance with the requirements of this section; and
- i. no danger to the community will result from the person being placed on special probation pursuant to this section.

## 2. Persons Ineligible<sup>6</sup>

A person is not eligible for sentencing pursuant to N.J.S.A. 2C:35-14 if the person is convicted of or adjudicated delinquent for:

- a. a crime of the first degree;
- b. a crime of violence as defined in subsection d. of N.J.S.A. 2C:43-7.2;

A crime of violence is defined as a conviction for a first or second degree crime, or an attempt or conspiracy to commit any of these crimes, under the following statutes:

<u>N.J.S.A. 2C:11-3</u>	Murder
<u>N.J.S.A. 2C:11-4</u>	Aggravated Manslaughter or Manslaughter
<u>N.J.S.A. 2C:11-5</u>	Vehicular Homicide
<u>N.J.S.A. 2C:12-1(b)</u>	Aggravated Assault
<u>N.J.S.A. 2C:12-11(b)</u>	Disarming a Law Enforcement Officer
<u>N.J.S.A. 2C:13-1</u>	Kidnaping
<u>N.J.S.A. 2C:14-2(a)</u>	Aggravated Sexual Assault
<u>N.J.S.A. 2C:15-1</u>	Robbery
<u>N.J.S.A. 2C:15-2</u>	Carjacking
<u>N.J.S.A. 2C:17-1(a)(1)</u>	Aggravated Arson
<u>N.J.S.A. 2C:18-2</u>	Burglary
<u>N.J.S.A. 2C:20-5(a)</u>	Extortion
<u>N.J.S.A. 2C:35-4.1</u>	Booby Traps in Manufacturing or Distribution Facilities
<u>N.J.S.A. 2C:35-9</u>	Strict Liability for Drug Induced Deaths

- c. a crime, other than that defined in N.J.S.A. 2C:35-7, for which a mandatory minimum period of incarceration is prescribed under chapter 35 of Title 2C or any other law; or

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<sup>6</sup> The criteria making persons ineligible are contained in N.J.S.A. 2C:35-14(b).

- d. an offense that involved the distribution or the conspiracy or attempt to distribute a controlled dangerous substance or controlled substance analog to a juvenile near or on school property.

### 3. Prosecutorial Consent<sup>7</sup>

A person convicted of or adjudicated delinquent for an offense under N.J.S.A. 2C:35-7, N.J.S.A. 2C:35-4.1, or any crime for which there exists a presumption of imprisonment pursuant to N.J.S.A. 2C:44-1(d) or any other statute, or who has been previously convicted of an offense under N.J.S.A. 2C:35-5(a) or a similar offense under any other law of this State, any other state or the United States, is not eligible for sentencing under N.J.S.A. 2C:35-14 if the prosecutor objects to the person being placed on special probation. Pursuant to N.J.S.A. 2C:35-14(c), the court may not place a person on special probation over the prosecutor's objection except upon a finding by the court of a gross and patent abuse of prosecutorial discretion. If the court makes a finding of a gross and patent abuse of prosecutorial discretion and imposes a sentence of special probation notwithstanding the objection of the prosecutor, the sentence of special probation imposed pursuant to this section is not to become final for 10 days in order to permit a possible appeal of such sentence by the prosecution.

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<sup>7</sup> The provision providing for prosecutorial consent is contained in N.J.S.A. 2C:35-14(c).

#### 4. Program Requirements<sup>8</sup>

Offenders sentenced pursuant to N.J.S.A. 2C:35-14 are required to be placed on special probation for a term of five years. The person placed on special probation shall be committed to a residential treatment facility immediately, unless the facility cannot accommodate the person, in which case the person shall be incarcerated to await commitment to the residential treatment facility.<sup>9</sup> The term of such commitment shall be for a minimum of six months or until the court, upon recommendation of the treatment provider, determines that the person has successfully completed the residential treatment program, whichever is later, except that no person shall remain in the custody of a residential treatment facility for a period in excess of five years. Upon successful completion of the required residential treatment program, the person shall complete the period of special probation. With credit for time served shall be given for any imprisonment served as a condition of probation and credit for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed to a residential treatment facility. A person sentenced to a five year term of special probation shall not be eligible for early discharge of probation pursuant

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<sup>8</sup> The requirement for inpatient treatment and length of probation term are set forth in N.J.S.A. 2C:35-14(a) and (d).

<sup>9</sup> The residential treatment facility must be licensed and approved by the New Jersey Department of Health and Senior Services, Division of Addiction Services. A copy of the list, as of July 1, 2002, is contained in Appendix C.

to N.J.S.A. 2C:45-2, or any other provision of the law. The court is required to consider the recommendations of the treatment provider in determining the number of credits for time spent satisfactorily complying with the terms and conditions of special probation while in residential treatment. See N.J.S.A. 2C:35-14(d). A person placed into a residential treatment facility pursuant to N.J.S.A. 2C:35-14 shall be deemed subject to official detention for the purposes of N.J.S.A. 2C:29-5 (escape).<sup>10</sup> See N.J.S.A. 2C:35-14(d).

In addition to the requirements of the statute, the drug court program requires that upon successful completion of the required residential treatment program, the person shall continue in aftercare treatment. Participation is also conditioned upon any other requirements set forth by the court such as intensive supervision by a probation officer, mandatory urine monitoring and regular appearances before the drug court judge. The specific details of a participant's program requirements beyond those mandated by statutory regulations will be determined by the drug court team based on that offender's individual circumstances, treatment needs, relapse history/potential, progress in treatment, support system, educational and vocational needs, medical/psychological issues and other factors that the team considers relevant.

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<sup>10</sup> During the initial six months of residential treatment, the defendant will be considered to be under "inmate" status. An unauthorized absence from the program will constitute an escape and a bench warrant will be issued. If the participant received an extension of the six month residential treatment component, inmate status is continued during the period of the extension, unless the court authorizes the provider to issue unescorted passes or furloughs per the procedures outlined in Procedures for Reporting Violations and Issuing Passes and Furloughs. See Appendix D, page 8.

## **B. Sentencing Pursuant to Other Provisions of the Code of Criminal Justice**

Substance abusing nonviolent offenders who are not subject to N.J.S.A. 2C:35-14 are also eligible for drug court disposition under the general sentencing provisions of the Code of Criminal Justice. This includes both prison-bound and non-prison bound offenders.

### **1. Eligibility Criteria under Sentencing Statutes**

An offender is eligible for sentencing<sup>11</sup> into drug court if:

- a. the person has a drug or alcohol dependence, as determined by a diagnostic assessment and substance abuse treatment and monitoring is likely to benefit the person; and
- b. the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, robbery, kidnaping, aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and
- c. the person did not possess a firearm at the time of the present offense and has no history of possession of a firearm during an offense; and
- d. no danger to the community is likely to result from the person being placed on probation.

The level of treatment suitable for an offender applying for admission into drug court will be clinically determined using American Society of Addiction Medicine (ASAM) criteria and that individual can be placed in drug court if a suitable

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<sup>11</sup> The terms of a sentence imposed in this context also apply to persons being sentenced for violations of probation.

treatment facility can be identified who is willing to provide appropriate treatment services. Any treatment program utilized by drug court participants must be licensed and approved by the State of New Jersey, Department of Health and Senior Services, Division of Addiction Services(DAS).

An offender who pleads guilty to, or is found guilty of, a violation of probation is also eligible for consideration for admission into drug court. Similarly, an individual who is terminated from the Pretrial Intervention Program who is legally and clinically appropriate is also eligible for consideration for admission into drug court. A person charged with a violation of probation based on a new offense is eligible for admission consideration if there are no statutory or program participation bars.

## **2. Persons Ineligible**

A person is not eligible for admission into drug court if the person is charged with a first or second degree crime.

## **3. Program Requirements**

An offender sentenced to drug court must be placed on probation for a term not to exceed five years. The exact structure of the treatment an offender may receive is based on the need of the offender as determined by a diagnostic assessment. An offender may need the same type of treatment that is given to offenders being sentenced to drug court pursuant to N.J.S.A. 2C:35-14, i.e., at least six months inpatient treatment followed by ongoing treatment and probation

supervision. Another may need only outpatient treatment and probation supervision. While there is no statutorily required length of probation for a non-N.J.S.A. 2C:35-14 sentence, the prison-bound cases are funded to provide for five years of drug court supervision and the non-prison bound cases are funded to provide for three years of drug court supervision to each offender. The length of drug court supervision is left to the discretion of the drug court judge and unlike cases sentenced under N.J.S.A.2C:354-14 early termination of probation supervision is an option that the drug court team may consider.

Participation is conditioned upon any and all requirements set forth by the drug court, such as intensive supervision by a probation officer, urine monitoring and regular appearances before the drug court judge.

The specific details of a participant's individualized program plan beyond those mandated by statutory regulations should be determined by the drug court team based on that offender's individual circumstances, treatment needs, relapse history/potential, progress in treatment, support system, educational and vocational needs, medical/psychological issues and other factors the team considers in case management decision making.

## **IV. DRUG COURT CASE PROCESSING**

Defendants may make application to the drug court program at any time following an arrest and up until plea cutoff. Since the purpose of drug court is to divert defendants with substance abuse problems into treatment, the earlier the diversion occurs the better. Entry of the defendant pre-indictment is therefore the best practice, although not required.

### **A. IDENTIFICATION OF POTENTIAL CANDIDATES**

#### **New Charges:**

Screening for a potential drug court applicant can occur at several stages both pre and post indictment. The most common screening stages are pre-indictment bail hearings, pre-indictment program events such as central judicial processing, post indictment pre-arraignment interviews (PAI) and arraignment/status conferences. A prosecutor, defense attorney or member of the court staff may spot a potential drug court candidate at any stage. Once identified as a potential candidate, the defendant, after consulting with their attorney, should make application to the drug court program .

#### **Violation of Probation Screening:**

If a supervising probation officer determines that a drug abusing probationer warrants a violation due to failure to comply with the rules and regulations of standard probation, that officer may make a recommendation in the Violation of Probation(VOP) report that the sentencing judge may consider drug court as an

alternative to incarceration. This recommendation should only occur after consulting with a supervisor. The supervising officer should review the probationer's prior criminal record to ensure that any individual they refer does not have an obvious legal disqualifier such as a prior violent conviction.

When reviewing a VOP report, a sentencing judge may consider making a referral to drug court if the offender appears to be incapable of responding to traditional probationary supervision and would benefit from participation in drug court. If the original sentencing judge finds the offender guilty of the VOP, and the offender agrees to apply to drug court after consultation with defense counsel, the VOP hearing should be adjourned so that an application to drug court can be processed. The offender's application forms, VOP report and prior presentence investigation report should be obtained and reviewed by the drug court team. If the offender is legally and clinically acceptable, the offender should be resentenced.

## **B. APPLICATIONS**

The following essential elements apply to each of New Jersey's Drug Court Programs:

- ◆ a drug court application must be made with the advice and consultation of defense counsel who will notify eligible candidates of program requirements; and
- ◆ drug court application packages each include (1) a Drug Court Application form, (2) a Consent for Release of Confidential Information form and (3) a copy of the Participation Agreement. Copies of these forms are included in Appendix E. Application packages should be made available in the Criminal Division Manager's Office, the Office of

the Public Defender and the drug court judge's courtroom in each county; and

- ◆ each completed application must be accompanied by a completed Consent for Release of Information form in order to enable drug court staff to obtain the confidential information necessary to conduct a clinical evaluation of eligibility; and
- ◆ the completed application and consent form should be submitted to the Criminal Division where it should be date stamped and processed per the protocol in that specific county ; and
- ◆ criminal division staff should enter the application information into the Promis/Gavel System.

### **C. LEGAL ACCEPTANCE**

The prosecutor's office shall determine its position with regard to an applicant's legal eligibility based on a review of various sources of information including those listed below. If a prosecutor is concerned that the defendant's participation in the drug court program would present a danger to the community, they may refuse to consent to that defendant's participation in the program.

**The legal screening for drug court acceptance should involve a review of the following:**

- ▶ statutory eligibility criteria contained in N.J.S.A.2C:35-14 or other statutory provisions in the code if applicable; and
- ▶ originating complaint(s) and associated police reports; and
- ▶ a recent computerized criminal record history from the New Jersey State Police and the Interstate Identification Index (State and Federal rap sheets); and
- ▶ Probation Division adult and juvenile records; and

- ▶ prior pre-sentence investigation reports; and
- ▶ NJ Judiciary mainframe database information; and
- ▶ other sources of criminal history information, if available.

The drug court prosecutor should review the candidate for presumptive legal acceptability and then forward a letter indicating their decision as to legal acceptability to the defense attorney, with a copy to the court. The drug court assistant prosecutor reserves the right to object to the defendant's acceptance if information is discovered at the time of sentencing, or through the presentence investigation process, that does not comport with the case information at the time of legal review. If the court, at the time of sentencing, decides it cannot accept the plea bargain the defendant shall be permitted to withdraw from the plea agreement.

#### **D. CLINICAL ACCEPTANCE**

The Judiciary's substance abuse evaluator should interview a defendant upon receipt of an application for drug court. The interview should consist of a biopsychosocial assessment and a urine screening. The substance abuse evaluator must utilize the Addiction Severity Index (ASI) to conduct a substance abuse evaluation to determine the applicant's clinical suitability for drug court. In addition, the substance abuse evaluator must utilize American Society of Addiction Medicine (ASAM) Criteria in determining the appropriate level of care for that particular applicant. The evaluator may consult family members where appropriate and contact additional agencies when needed.

The substance abuse evaluator, in consultation with the drug court team and the Division of Addiction Services, should attempt to identify the most appropriate treatment provider agency which could meet that individual's clinical needs. The substance abuse evaluator should then produce a written evaluation and forward it to the drug court judge, the drug court prosecutor, and the applicant's defense counsel.

**The substance abuse evaluation should include the following:**

- ◆ the extent of the applicant's illicit drug and alcohol use; and
- ◆ the substance use diagnosis(es) of the applicant based on the DSM-IV criteria; and
- ◆ prior substance abuse treatment history and current treatment needs of the applicant; and
- ◆ medical and psychological issues that may complicate or preclude the applicant's participation in particular treatment programs; and
- ◆ the level of care needed by the applicant; and
- ◆ a determination of who would be an appropriate treatment provider and whether that provider has agreed to accept that applicant for substance abuse treatment services.

**E. ACCEPTANCE INTO DRUG COURT PROGRAM**

If an applicant is found both legally and clinically acceptable for the drug court program, a formal plea bargain should therefore be offered to the applicant defendant which identifies drug court participation as an alternative sentence. A plea date should then be scheduled and a pre-sentence investigation report

ordered as per N.J.S.A. 2C:44-6. The probation officer preparing this report must attempt to make contact with any victims and obtain restitution information and/or the victim's statement. The drug court team should discuss the defendant's treatment plan as recommended in the substance abuse evaluation, the provider most suitable for that offender and any other related matters that need immediate attention such as whether the defendant is in custody and has a municipal detainer. The drug court should schedule a plea hearing date as soon as possible following the defendant's formal program acceptance. During the plea hearing, the defendant must appear before the drug court judge and enter a plea of guilty to the offense. At that time they will be required to sign the Drug Court Participation Agreement which delineates the rules and responsibilities of those subject to drug court supervision. This agreement will become effective on the date of sentencing. Following the guilty plea, the defendant will be interviewed by an Investigative Probation Officer to obtain any supplementary information necessary for preparation of a Presentence Investigation Report pursuant to N.J.S.A. 2C:44-6. The probation officer preparing this report must attempt to contact any victims in order to obtain restitution information and a victim's statement, if applicable.

Once a defendant pleads guilty in drug court, special bail conditions may be imposed which could include weekly drug court appearances, regular reporting to a substance abuse evaluator (or other drug court representative), random urine monitoring, participation in any drug treatment program designated by the drug

court team and attendance at 12 step meetings. Failure to comply with such conditions may result in revised special bail conditions which may include, but are not limited to, the following:

- ◆ issuance of a bench warrant; and/or
- ◆ incarceration in the county jail which could include referral to an in-custody substance abuse program or could require that the defendant remain in custody until a treatment slot is available; and/or
- ◆ an increase in interim reporting and urine testing frequency .

Application of special bail conditions and any revision of the treatment plan should be decided by the drug court judge, with the input of the team .

At the time of sentencing the Presentence Investigation Report is reviewed for previously unknown information which could affect a defendant's program eligibility status, such as existence of prior violent convictions, a bench warrant or detainer, or pending Family or Municipal Court offenses. In Violation of Probation referrals, if a defendant is found to be legally and clinically acceptable for the program, the defendant is to be resentenced by the drug court judge.

The drug court assistant prosecutor reserves the right to object to a defendant's acceptance if information is discovered at the time of sentencing, or through the presentence investigation process, that does not comport with the case information previously available and considered at the time of legal review. If, at the time of sentencing, the court decides that it cannot accept the plea agreement, the defendant may seek the court's approval to withdraw their plea per the process in other criminal cases.

The following are standard conditions of a drug court sentence:

- ◆ participation in drug court not to exceed five years which shall include the successful completion of all phases of the drug court program; and
- ◆ a term of supervised probation not to exceed 5 years; and
- ◆ compliance with all court ordered treatment until successful discharge; and
- ◆ mandatory urine monitoring as deemed necessary by the drug court team; and
- ◆ mandatory appearances at all drug court proceedings, as directed by the court.

#### **F. APPEAL PROCESS**

Each applicant for admission into drug court shall be entitled to full and fair consideration of his/her application. If an application is rejected for either legal or clinical reasons, the assistant prosecutor or substance abuse evaluator shall precisely state in writing their findings and conclusions which shall include the facts upon which the application is based and the reasons offered for the rejection. If the applicant desires to challenge the decision of the Prosecutor's Office or substance abuse evaluator not to recommend enrollment into the drug court program, a motion should be filed before the drug court judge seeking a review of that rejection. Any applicant wishing to appeal a rejection from Drug Court must do the following within 14 days of the notice of rejection.

**If an applicant seeks to appeal a legal or clinical rejection, the applicant must:**

1. file a Notice of Motion with the Criminal Division Manager's Office; and

2. file a certification stating the basis for the appeal of the legal or clinical rejection; and
3. include information regarding the nature, date and location of the applicant's next scheduled court proceeding.

A hearing date for consideration of the motion should be set by the drug court judge's Team Leader.

## **V. THE DRUG COURT TEAM**

### **A. The Team Approach**

The New Jersey drug court programs utilize a team approach to informally conference cases prior to actual courtroom proceedings. The purpose of the team approach is to present a coordinated response to offender behavior. Case conferences are conducted to encourage shared decision making with all team members and to provide the judge with information from a number of sources so that they can maintain an informed approach to participants during courtroom status reviews.

The drug court team should meet each week to conference active cases and discuss other drug court related issues. During these weekly meetings the team should discuss issues involving program acceptance, a program plan, movement in program phases, level of judicial and probationary supervision, frequency of drug testing, impediments to sobriety, imposition of a system of sanctions and incentives and program graduation and expulsion and discharge plans from residential programs, if necessary. This case conferencing could occur on the morning of or during the lunch break prior to courtroom proceedings. The specific scheduling of these sessions may vary among court vicinages, depending on local circumstances.

The drug court team should include, but not be limited to, the following:

**Drug Court Judge**

**Program Coordinator**

**Prosecutor**

**Public Defender**

<b>Substance Abuse Evaluator(s)</b>	<b>Probation Supervisor and Officers</b>
<b>Team Leader</b>	<b>Investigator</b>
<b>Judiciary Clerk</b>	<b>Treatment Provider Representative(s)</b>

Using the collective expertise of various team members to address each case is the heart and soul of the drug court approach. Although the judge is the final decision maker, team consensus is the goal. Differences of opinion should be shared, discussed and debated in an atmosphere of respect even when consensus cannot be reached. In the courtroom setting, the team should function as a collective unit, fully supporting whatever decision the team and the judge make involving a response to a participant's behavior. It is vital that each team member understand the role of every other team member, respect their individual areas of expertise, and learn to communicate effectively.

Programmatic or administrative issues which are not easily resolved that arise during the course of team meetings should be deferred to another time so as not to distract from the team's focus on participant issues. These other issues can be discussed and resolved after staffing or separate meetings could be scheduled.

During court sessions, each participant must appear before the judge along with a supervising probation officer and treatment provider to report on the participant's progress since his or her last review. These status hearings should be held in open court in the presence of other participants. Participants should remain for the entire court session unless the judge permits otherwise.

## **B. Team Roles and Responsibilities**

### **1. Team Members**

#### **Each team member must:**

- ▶ understand that addiction is a disease and that relapse is part of recovery;
- ▶ understand the mission and philosophy of drug court and work to support the program's goals;
- ▶ make a commitment to operate in a true team process and environment;
- ▶ develop a general knowledge and familiarity with the addictive personality; and
- ▶ be knowledgeable about gender, age ethnographic, racial and cultural issues that may impact a participant's success.

### **2. Role of the Drug Court Judge**

#### **The drug court judge must:**

- ▶ assume a leadership position, effectively lead the team and assume ultimate authority and responsibility for team decisions;
- ▶ acquire a general knowledge of addiction, alcoholism and pharmacology and apply that knowledge to respond to compliance issues in a therapeutically appropriate manner;
- ▶ develop an understanding of 12 Step self-help programs and become familiar with the treatment modalities utilized by participants;
- ▶ be willing to develop rapport with the participants, address their issues and reward their successes while maintaining the authority of a Superior Court judge; and
- ▶ lead the team to educate other members of the criminal justice system and the community on program goals and standards.

### **3. Role of the Drug Court Prosecutor**

**To be developed by New Jersey drug court prosecutors**

### **4. Role of the Drug Court Public Defender**

**The Drug Court Public Defender must:**

- ▶ function as a full and essential member of the Drug Court team, although he/she does not relinquish his/her defense attorney function;
- ▶ in conjunction with other public defender trial attorneys, identify potential participants, review with them their discovery and counsel them concerning possible case resolution options including Drug Court, motions and potential trial outcomes;
- ▶ in conjunction with other public defender trial attorneys, counsel clients as to the benefits and demands of the Drug Court program ;
- ▶ in conjunction with other public defender trial attorneys, conduct a threshold assessment of the clinical and legal suitability for the Drug Court program of each potential applicant and, if appropriate, complete the client's initial application to the program ;
- ▶ participate in the Drug Court team's assessments of each client's acceptability;
- ▶ work with others to resolve soluble legal impediments to client admission;
- ▶ perform traditional defense counsel functions with regard to the plea and sentencing processes;
- ▶ work with members of the Drug Court team to develop solutions to life issues impeding client treatment and progress;
- ▶ counsel clients concerning legal and treatment issues during the course of their participation in the program ;
- ▶ participate in the Drug Court team's ongoing assessment of client progress, administration of sanctions and rewards, and suitability for graduation;

- ▶ participate in the ongoing development of operational policies and procedures for the Drug Court program ;
- ▶ participate as a member of the Drug Court team in both community education and outreach concerning the Drug Court program, and the utilization of services available from community-based agencies;
- ▶ participate in continuing training specifically geared toward Drug Court concerns, including, but not limited to, an understanding of the psychosocial factors pertinent to addiction and treatment;
- ▶ visit various facilities in order to become and remain familiar with the services offered to clients in the Drug Court program ;
- ▶ when consensus is not possible, litigate denials of admission, contested sanctions and termination proceedings.

#### **5. Role of the Drug Court Coordinator**

**The drug court coordinator must:**

- ▶ maintain responsibility for overall day to day operations of the drug court;
- ▶ function as the "point person" for probation, the judge, the treatment providers and related agencies;
- ▶ possess a knowledge of addiction and substance abuse treatment and case management, and guide collaborate projects;
- ▶ support community mapping efforts by functioning as the primary liaison to the community and by representing the program at all levels, county, state and national;
- ▶ understand that drug courts are an evolving program and therefore maintain a connection with outside resources to bring new ideas to team members.

#### **6. Role of the Drug Court Probation Officer**

**Drug Court probation officers must:**

- ▶ maintain responsibility for enforcing the court order which sentenced a participant to drug court;
- ▶ be responsible for overall client case management, monitor drug testing and supervision of participants, and bring relevant issues to the attention of team members as necessary;
- ▶ work to assist a participant in achieving program goals, garnering assistance from other team members when needed to address the myriad of personal issues that impede a participant's rehabilitation toward long term recovery.

## **7. Role of the Substance Abuse Evaluator**

### **The substance abuse evaluator must:**

- ▶ conduct the clinical evaluation process of drug court applicants;
- ▶ administer the ASI using ASAM criteria to make appropriate evaluation findings;
- ▶ possess a knowledge of the treatment provider agencies available to their court and make recommendations for appropriate referrals for drug court participants;
- ▶ conduct drug testing at the time of evaluation and thereafter whenever required by the drug court judge;
- ▶ assist supervising probation officers in clinical aspects of their client case management responsibilities;
- ▶ make recommendations for aftercare treatment and therapeutic responses to relapse;
- ▶ provide the team with clinical information through contact with other evaluators and outside organizations.

## **8. Role of the Judiciary Clerk**

### **The judiciary clerk must:**

- ▶ process all drug court applications and enter the pertinent information from them into the Promis/Gavel (P/G) system;
- ▶ generate and distribute P/G calendars on a weekly basis;
- ▶ monitor drug court files and assist team members in clerical functions associated with administrative aspects of program management; and
- ▶ provide ancillary support such as tracking incentive programs and producing program documents such as brochures and fact sheets for community mapping efforts.

## **9. Role of the Drug Court Team Leader**

### **The team leader must:**

- ▶ supervise line drug court staff, which may include the court clerk, criminal division probation officer(s) assigned to drug court, an investigator and a judiciary clerk;
- ▶ manage the calendar of all duties assigned to the drug court judge including the non-drug court related activities such as a criminal case calendar and pre-indictment program;
- ▶ coordinate with the prosecutor the pre-screening of candidates for any existing pre-indictment programs such as CJP, PIP or PDC court;
- ▶ oversee drug court case management by processing applications, scheduling case reviews, maintaining court calendars and notifying team members;
- ▶ work closely with the drug court coordinator to ascertain staff training, equipment, supplies and other resources for program functioning; and
- ▶ share responsibility with the coordinator for the collection of data necessary to ensure that program evaluators receive appropriate data for budgetary calculations and program analysis.

## **10. Role of the Private Attorney in Drug Court**

### **To be Developed**

## **VI. PHASES OF THE DRUG COURT PROGRAM**

The management of drug court cases consists of four progressive phases which encompass various levels and degrees of substance abuse treatment and probationary supervision. The team should regularly assess each participant's overall situation which includes the suitability of their living arrangement, employment skills, and need for other service referrals.

Since developing an independent drug-free and crime-free lifestyle is a difficult process, obstacles to a participant's progress may occur during any phase. Some obstacles are external, and strategies to address them should be developed by the team. Other obstacles are internal, due to participant non-compliance. A variety of sanctions can be utilized by the court to address any noncompliance. Incentives can also be offered for participants who demonstrate cooperation, motivation and achieve treatment goals.

Progress from one phase to the next should be considered when the participant has clearly mastered the requirements of a given phase. The continuing goal is for a participant to increasingly assume personal responsibility for their life. In order for movement to be approved to a higher phase, urinalysis results, treatment summaries and probation reports should indicate a stable early recovery, as well as progress in resolving other personal and family issues. The submission of a formal application is not a required practice for all drug courts, although it is a useful measure. In some drug courts, each participant must to make a formal

application to the drug court judge for movement to the next phase or for any “special request”, such as permission to leave court early to pick up a child at day care. While team members should give input into the response to these requests, the drug court judge should make the final decision.

While it is hoped that each participant will be able to move directly through each phase, the drug court team recognizes that recovery is a complex challenge and that relapse may occur. Even if a participant advances to a less intensive treatment level, it may become clinically necessary for a participant receive more intensive therapy, up to and including inpatient treatment, before again progressing to a less intensive treatment level.

A participant’s overall participation, progress and risk of relapse dictates the determination of the drug court phase in which they are placed. The appropriate level of care needed for a participant should be determined by an assessment of treatment needs and may not always coincide with phase progression and movement. The duration of each phase should vary depending on the participant’s progress in recovery.

**A. Phase I. Stabilization - Residential or Intensive Outpatient Treatment**

**1. Residential Treatment (If warranted)**

During any residential phase of treatment, the treatment provider should periodically advise the court and supervising probation officer of a participant’s

progress. Ideally, a participant should be scheduled for an initial court review no later than 90 days from entry into residential treatment, and monthly thereafter, until the residential treatment component of the recovery program has been fulfilled. The frequency of drug court review may vary at the discretion of the drug court team. It is based on the participant's treatment issues and reports/observations made by the supervising probation officer, the caseload size of the particular court and the distance between the provider agency and that particular court.

For participants sentenced under N.J.S.A. 2C:35-14: The minimum six months treatment requirement may be extended for an additional 30 or 60 days to meet a specific participant's treatment needs. However, the Division of Addiction Services, Drug Court Residential Requirements state that "in the event that the grantee feels that the residential phase of treatment should extend beyond six months for an individual Drug Court client, this recommendation shall be provided in writing to the sentencing Drug Court with a copy to the Division of Addiction Services (DAS), Criminal Justice Unit at least 30 days prior to scheduled release date. Approval for additional treatment and the amount of additional time requested must be provided by the sentencing court with the concurrence of DAS." For all residentially treated participants: The team should establish an extended aftercare plan that encompasses substance abuse treatment, probationary supervision, an assessment of the participant's overall situation including suitability of living arrangement, employment skills, and other service referrals if appropriate.

If logistically possible, the supervising probation officer should visit the participants on a regular basis at the residential treatment facility where they are housed and conduct urine testing according to that specific probation division's policy.

## **2. Intensive Outpatient**

Each participant who enters Phase I at an intensive out-patient level, and those who advance from residential to intensive out-patient, must follow Phase I requirements, which are:

- ▶ a minimum of three (3) treatment contacts each week, or as determined by the drug court team, which may be a combination of group, individual, family/couples counseling, anger management, relapse prevention groups, etc; and
- ▶ at least three (3) verified 12-Step meetings or support groups each week; and
- ▶ securing at least a temporary sponsor; and
- ▶ one (1) in-person appearance at drug court each week; and
- ▶ two (2) in-person contacts with the participant's supervising probation officer (one of which must be outside of the drug court setting) per week; and
- ▶ a minimum of two (2) random urinalyses each week to confirm abstinence.

**Each participant must remain in PHASE I for at least ninety (90) days even if they initially enter PHASE I in Intensive Outpatient treatment (IOP) or enter PHASE I in residential treatment and is thereafter released to intensive outpatient treatment.**

In order to move to PHASE II, each PHASE I participant must:

- ▶ be approved by the drug court team to enter Phase II; and
- ▶ be steadily employed, in school or in a training program <sup>12</sup>; and
- ▶ **OPTIONAL:** complete a "Request for Movement" form submitted to Probation Officer (See Appendix H); and
- ▶ **OPTIONAL:** present the "Request for Movement" in court

## **B. Phase II. Positive Change**

During this phase each participant should be meeting treatment and legal obligations. Development of a stable early recovery is expected and an overall positive change is required.

Each participant must comply with Phase II requirements:

- ▶ a minimum of two (2) treatment contacts each week or as determined by the drug court team; and
- ▶ three (3) verified 12-Step meetings or support groups each week; and
- ▶ one (1) in-person appearance at drug court every other week; and
- ▶ two (2) in-person contacts with a supervising probation officer (one of which must be outside of the drug court setting) per week; and
- ▶ a minimum of one (1) random urinalysis every week to confirm abstinence.

**Participants must remain in PHASE II for at least six (6) months.**

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<sup>12</sup> A drug court team may determine that it would be appropriate to make an exception to this requirement to allow a participant to spend time engaging in the care of their own young child(ren).

In order to move to PHASE III, a participant must:

- ▶ be approved by the drug court team to enter Phase III; and
- ▶ have a permanent sponsor and home group; and
- ▶ be steadily employed, in school or in a training program<sup>13</sup>, and
- ▶ **OPTIONAL:** complete and present the "Request for Movement" form. This form is to be submitted to the Probation Officer. (See Appendix H)

Movement to the next phase should be considered when a participant has clearly made identifiable progress towards program goals and is in a stable early recovery as confirmed by urinalysis results, treatment summaries and probation reports and progress in resolving other personal and family issues.

### **C. Phase III. Relapse Prevention**

During this phase of drug court, a participant must make significant progress in meeting the goals of the drug court program and should be resolving personal and family issues. All probation obligations should be met consistently and a stable recovery should be evident. A participant in Phase III will be expected to act as a role model for other participants.

Participants must comply with Phase III requirements:

- ▶ a minimum of one (1) treatment contact each week or as determined by the drug court team; and
- ▶ three (3) verified 12-Step meetings or support groups each week; and
- ▶ a minimum of one (1) in-person appearance in drug court per month, except for the last month before anticipated commencement; and

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<sup>13</sup> See footnote 12.

- ▶ one (1) drug court appearance per week during the last month before anticipated commencement or as determined by the drug court team; and
- ▶ two (2) contacts with a supervising probation officer per week (one of which must be outside of the drug court setting); and
- ▶ a minimum of one (1) random urinalysis every other week to confirm abstinence; and
- ▶ **OPTIONAL:** complete a "Request for Commencement" in drug court (See Appendix H).

**Participants Must Remain in Phase III for a Minimum of 90 Day s.**

#### **D. Phase IV. Commencement**

A participant must spend a minimum of 18 months under intensive drug court supervision before drug court commencement can be considered. Note: Eligibility for commencement begins 18 months after the date of sentence. A participant who arrives at the commencement phase of the program should transition from supervision by the drug court team to standard probationary supervision. Any court ordered payments, which have not been completed during the prior phases must be completed during this phase. After commencement, a participant remains subject to random urine testing during the remainder of their probationary term and must continue with any treatment provisions agreed upon prior to graduation from drug court. A positive urine test should result in review by the drug court judge and may result in a Violation of Probation or re-entry into the active drug court program.

After commencement, the supervising officer must submit a report on the

participant's progress to the drug court team every three months. A participant on probationary supervision after "commencement" from drug court may be directed to appear in drug court on a quarterly or semi-annual basis for a status hearing. A participant who has reached this stage in the program may serve as a positive role model to other participants and may be asked to provide support and encouragement for new drug court participants. By the time the term of probationary supervision concludes, a participant should clearly have developed a drug-free/crime-free lifestyle, a stable home and work environment and a sense of independence, and should no longer require court supervision.

**E. State of New Jersey Drug Court Graduation/Completion Criteria**

- ▶ The participant must have a minimum of one year continuous clean time; and
- ▶ The participant must have successfully completed the treatment program and aftercare as required by the drug court team; and
- ▶ The participant must be employed full-time. Part-time employment is permitted if a participant is also actively engaged in a full-time trade or vocational school; Exceptions may be made for participants who are unable to work due to a disability or other issues. (See footnote 12).
- ▶ The participant must have established a regular payment history on all court ordered amercements including child support; and
- ▶ The participant's history of compliance with drug court stipulations as well as how frequently he or she required the imposition of sanctions; and
- ▶ The participant must be able to demonstrate to the judge and drug court team a sober network of support in the community where they reside; and
- ▶ **OPTIONAL:** The participant must make formal application to graduate.
- ▶ No criminal charges or active bench warrants are pending against the participant.

## **VII. SANCTIONS AND INCENTIVES**

### **A. SANCTIONS**

The drug court judge should utilize various sanctions when appropriate for a participant who fails to comply with program stipulations or who appears to be engaging in behaviors that endanger sobriety. Failure to comply with treatment, failure to report to supervising authorities, or a positive urinalysis test could result in the imposition of sanctions. While relapse is a predictable part of recovery, it must be addressed. Therefore, a participants who fails to comply with established drug court stipulations should have an increase in their level of reporting to the drug court judge, the substance abuse evaluator, the probation officer and the treatment provider, based on the severity of their non-compliance. A positive urine test requires immediate response, but the nature of that response should be based upon that individual's situation. Factors which should be considered in determining that response are: Was the relapse self-reported? Did the participant attempt to "fool" the urine test? How long has the participant been in the program/treatment? Is this a first or a single relapse? Has the participant resumed substance abuse at a pre-drug court level? What are the results of a post-relapse clinical reevaluation of the participant?

The application of a sanction should be a team decision based on a variety of factors. Often the resources available in a jurisdiction may limit the type of sanctioning available. For example, jail conditions such as overcrowding may limit

the ability to sanction with a short custodial stay; or conditions might provide for a sanction that does not exist in other jurisdictions such as a Sheriff's Labor Assistance Program (SLAP). The determination of whether a specific sanction should be delivered for a particular infraction should be left to the discretion of the drug court judge in consultation with the drug court team.

Participant behavior that may warrant sanctioning in a drug court setting may include, but not be limited, to the following:

- ◆ lateness for a court session;
- ◆ un-excused absence at treatment;
- ◆ failure to provide proof in court of attendance at NA/AA meetings;
- ◆ failure to report to or contact probation as directed;
- ◆ failure to provide a urine sample when requested;
- ◆ providing an adulterated or substituted urine sample;
- ◆ providing a urine sample that tests positive for drug or alcohol use; or
- ◆ leaving the State of New Jersey without permission of the drug court judge.

In establishing a system of graduated sanctions, each team should consider the following important issues that relate to sanctioning in a drug court environment:

1. To be effective a sanction should be a part of an overall behavior modification plan developed by the drug court team.
2. Punishment is not always received as the team intends. How a sanction is received will depend upon the participant's life history. For example, jail may not be a deterrent to a habitual offender.

3. A sanction should be immediate. The impact of a sanction is strongest when it is delivered immediately after the infraction.
4. A sanction should be imposed for each infraction. Inconsistency in administering consequences for a participant's negative behavior invites that participant to continue to be irresponsible for their behavior.
5. An exception to sanctioning a participant needs to be carefully thought out by the team and fully explained to all participants.
6. Non-compliant behavior needs to be reliably detected because it strengthens the credibility of the drug court team.
7. It is critical to provide a participant explicit behavior instructions so that they have the opportunity to respond as desired. An unpredictable or uncontrolled sanction can lead to "learned helplessness."
8. Drug Court should function as "Truth Court" - It is important to clarify that dishonesty is sanctioned; not necessarily the infraction itself about which the participant lied.
9. When the team decides to impose a sanction for a behavioral infraction, they should also consider imposing a concurrent treatment related response.
10. A participant needs to see the difference between a punishment in the form of a sanction and a treatment intervention.

## **EXAMPLES OF POTENTIAL SANCTIONS**

(Sanctions are listed in no particular order)

**Sanctions could include, but are not limited to the following:**

- ▶ increased reporting frequency to court, probation and substance abuse counselor;
- ▶ additional drug testing;
- ▶ a period of incarceration in the county jail;
- ▶ phase demotion;

- ▶ loss of or reduction of “incentives” already awarded;
- ▶ a written assignment such as an essay on reasons why a participant is having trouble complying;
- ▶ essay writing with presentation of the essay in court;
- ▶ verbal chastisement from the bench;
- ▶ remaining in the drug court courtroom (or another courtroom) for a period of hours or days;
- ▶ a designated number of community service hours;
- ▶ a designated number of hours to be served in a program such as the Sheriff’s Labor Assistance Program (SLAP), if available;
- ▶ an increased number of AA/NA meetings attended weekly;
- ▶ house arrest;
- ▶ imposition of a curfew.

## **B. INCENTIVES**

Program incentives should include measures such as a reduction in the frequency of reporting and urinalysis testing, expedited court hearings and early discharge from the drug court program and probationary supervision, if not statutorily barred. Additionally, during status hearings, each drug court participant who is advancing to the next phase of treatment should be acknowledged in open court. Upon successful completion of the drug court program, each participant should be honored in a “graduation” ceremony attended by family and friends designed by the drug court team in a manner acceptable to the court.

## **EXAMPLES OF POTENTIAL INCENTIVES**

(Incentives are listed in no particular order)

**Incentives could include, but are not limited to the following:**

- ▶ verbal encouragement from the judge and team members;
- ▶ early phase advancement;
- ▶ reduction in drug testing and reporting to the court and probation;
- ▶ permission to leave court early before session is completed;
- ▶ round of applause and verbal recognition from the staff and participants for positive progress;
- ▶ a chip or coin to mark milestones in recovery and in the program;
- ▶ certificates of advancement and achievement;
- ▶ restoration of lost privileges from prior relapse or some other infraction;
- ▶ assignment to help the court distribute awards or assist in the courtroom procedures in some way;
- ▶ encouragement to the participant to tell their "story" or talk about their successes in open court before their peers;
- ▶ group activities such as picnics or sporting events;
- ▶ commencement and graduation celebrations with family and support network members present. Refreshments should follow the ceremony.

## **VIII. DRUG COURT SUPERVISION AND CASE MANAGEMENT**

### **A. PROBATION SUPERVISION**

#### **1. Introduction**

A drug court participant is sentenced to a probationary term and supervised by a drug court team probation officer. The probation officer's primary goal should be to maintain close contact with each participant through frequent office and home visits. Probation officers help participants comply with both general and specific conditions of the drug court program and probation. Examples of these conditions include remaining drug free, reporting regularly, maintaining employment, and paying fines and penalties.

Drug court probation officers interact with treatment providers, family members, defense and prosecution attorneys, schools, employers and social service agencies to implement the team approach to each participant's recovery. They routinely coordinate, refer, monitor and help manage a participant's daily activities to ensure compliance as well as recovery. The probation officers also often act as the liaison between local agencies and the drug court program, striving to incorporate the community into each participant's treatment plan.

Drug court probation officers perform all of their duties within a drug court team framework, and so must report to the team on a regular basis as to each participant's progress. This should include bringing to the team's attention any issue that requires immediate intervention by the drug court and attending drug court hearings.

## **2. Levels of Supervision**

Drug court probation officers are responsible for providing community supervision and for monitoring all requirements imposed by the drug court judge in each phase of the program. Within these phases, probation officers apply different levels of supervision designed to help the participants combat their addiction and prevent relapse, as well as to obey the law and comply with program conditions.

The levels of supervision should vary as needed. Together they should provide a structure which will enable the probation officers to respond effectively to any non-compliance by participants with program requirements, special conditions, or probation conditions. The levels also help establish a framework for the progression of participants through the program toward legal and social independence, free from drug abuse. Participants are evaluated at each level by the probation officer and drug court team, and the case plan is adjusted accordingly.

The following table illustrates the drug court "Structure for Supervision" and the relationship of supervision levels to phases of the drug court program, treatment modalities and time frames.

## Drug Court Structure for Supervision

Phase		Treatment Modality (Phases I, II, III)	Level of Supervision	Duration	
I	<b>Stabilization</b>	Residential Treatment	Intensive * 2 contacts per month * 50 cases per PO	6 Months	
	or	Intensive Outpatient	Intensive * 2 contacts per week * 50 cases per PO	3-6 Months	
II	<b>Positive Change</b>	Outpatient Treatment	Intensive * 2 contacts per week * 50 cases per PO	6 Months	
III	<b>Relapse Prevention</b>	Outpatient Treatment	Intensive * 2 contacts per week * 50 cases per PO	6 Months	
IV	<b>Aftercare</b> (post-commencement/ pre-graduation status)	Alumni Status	Close * 1 contact per week * 70 cases per PO	Balance of Term	
		Self Help Groups such as:	Alcoholics Anonymous and/or		Regular * 2 contacts per month * 100 cases per PO
			Narcotics Anonymous		Reduced * 1 contact per month * 110 cases per PO

Note: Contacts for the Levels of Supervision expressed in this table are a guide only, subject to Probation Officer discretion, in accordance with the outcomes-based model of supervision.

### **a. Definition of Each Level of Supervision**

Probation's Outcome-Based Model of Supervision(OBS)<sup>14</sup> is a results-driven plan for client supervision. It focuses probation officers on the accomplishment of specific tasks, resulting in the achievement of performance outcomes by the client. By emphasizing results in this way, probation officers will be better able to customize the use of their time and resources on individual cases.

OBS is a more flexible method of client supervision. It requires probation officers to develop and carry out supervision plans that are based on the specific needs of each case. The goal is to achieve compliance with the court order and with the case objectives. The objectives are formulated into a case plan. This plan is based on an assessment of client needs, using a variety of facts and factors, and subject to a scientific risk instrument and officer override, when necessary.

OBS is adaptable to drug court supervision. To meet the need for both intensive and varied levels of supervision, as required within the drug court program, OBS calls for probation officers, after consultation with the drug court team, to develop an individualized activity and monitoring schedule for each drug court participant. During the first three phases of the program, this schedule must prescribe a frequency and types of contacts that ensure the right amount of intensity.

Drug court participants are at high risk for re-offending and relapse.

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<sup>14</sup> The OBS levels of supervision are not yet programmed into CAPS. Currently, probation officers use the existing terms of intensive, maximum, medium and minimum for purposes of entering data into the CAPS database.

Therefore, the strategy for drug court probation officers is to intensify the supervision in the beginning of the term to establish and reinforce expectations. Frequent contacts and interaction of the drug court probation officers in the first phases of drug court enable the officers to establish a strong working relationship with the participants and a framework for achievement.

**Intensive Supervision** is applied for the first eighteen months of a participant's term. It is important that during the first three phases of the program, intensive monitoring of the treatment and compliance aspects of each case are emphasized since this is the time frame for the highest risk of noncompliance. Intensive supervision is also appropriate for any participant at high risk for relapse or those whose compliance is unsatisfactory during less intensive levels of supervision.

The nature and number of supervision contacts should be determined by the probation officer in response to the course of a participant's progress. A minimum of two in-person contacts with the probation officer and two drug screens weekly should be performed, however, the level of activity should be determined in conjunction with the participant's drug court team and court contacts, treatment requirements and obligations such as community service.

For participants in the residential treatment component of Phase I, less monitoring activity is required of the drug court probation officers. While the number of actual contacts is within the discretion of the officers, a minimum of two

contacts per month is recommended, one of which should be direct. It is important, however, that the probation officer maintain frequent contact with each probationer's counselor while in residential treatment to remain current on that participant's progress and the potential need for court intervention.

Once a participant successfully completes the intensive phases of the program, a ceremonial commencement should be held. At that time, the participant should progress to Phase IV and become subject to a less restrictive level of probation supervision.

Within Phase IV, drug court probation officers will classify each drug court participant using the appropriate probation risk assessment tool, but will have at their discretion the authority to change or override that classification based on either consultation with members of the drug court team or, if specific case circumstances warrant, a classification override.

**Close Supervision** should be provided at the start of Phase IV as a transition from intensive supervision to the less restrictive levels of supervision which follow. During phase IV, if the participant is not in compliance with the case plan, is not cooperating with the probation officer, has had positive drug screens, or is not gainfully employed, enforcement action should be considered. The participant's level of supervision may need to be increased. Within this level of supervision, a minimum of one in-person contact with the probation officer and one drug screen per week is the expected activity level. In addition, the participant must

continue to maintain drug court team and court contacts, treatment requirements, and community and alumni status obligations, as required. Once the drug court probation officer believes that a closely supervised Phase IV participant has demonstrated sufficient satisfactory compliance, a request may be made to the drug court team for authorization to progress to the next level of supervision within Phase IV, which is regular supervision.

**Regular Supervision** is appropriate if a participant demonstrates substantial compliance with his or her community case plan and is working toward promotion to the next level of supervision. If a participant suffers some degree of relapse or has difficulty in achieving one or more areas of the community case plan or program, it could nevertheless be appropriate to address these problems while the participant is being maintained at this level. The number and nature of supervision contacts should be determined by the probation officer as progress dictates, but a minimum of two in-person contacts with the probation officer and two drug screens per month is the expected activity level, in addition to any other relevant obligations. If a participant demonstrates consistent progress at this level, a probation officer may petition the team for a reduction in supervision.

**Reduced Supervision** is appropriate if a probationer has completed Phase I, II, and III, is in substantial compliance with the community case plan, and is working toward discharge from the program and supervision. A participant should

be working or in school<sup>15</sup>, attending treatment as required and submitting negative drug screens. For promotion to this final and least restrictive level of supervision, the probation officer should consider a participant to be capable of leading a productive, drug-free life, independent of the supervision of the program and a probation officer. That assessment of readiness for independence is a joint decision by the drug court judge, other team members, treatment providers and the probation officer. A minimum of one in-person contact with the probation officer and one drug screen per month should then be maintained.

**b. Furlough Supervision**

**To be Developed**

**c. Specific Drug Court Probation Officer Responsibilities**

Drug court probation officers have many responsibilities within the drug court program, and more specifically, during the different levels of supervision. Among these are to:

- contact treatment providers;
- visit treatment facilities;
- perform crisis intervention;
- report any non-compliance to the drug court;
- conduct curfew checks during non traditional hours;
- conduct random home visits;

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<sup>15</sup> See footnote 12.

- perform routine and random drug screens;
- contact schools and employers;
- collect court-ordered fines and penalties;
- assist community case planning;
- perform pager duty required on crisis cases/escapes;
- submit petitions for violations of probation if the drug court team decides this is warranted;
- arrange bench warrants, or issue probation warrants/detainers;
- assist other drug court team members with ongoing implementation of new ideas;
- maintain accurate statistics and documentation on the Comprehensive Automated Probation System (CAPS). (Community supervision of drug court cases are tracked on CAPS.)

### **3. Drug Testing**

#### **a. Drug Court Goals of Drug Testing**

The goals of drug testing within a drug court program are to deter future drug use by participants, to identify participants who are maintaining abstinence, to identify participants who have relapsed, and to supplement treatment and sanction decisions.

#### **b. Probation Supervision Philosophy in Drug Testing**

Drug court probation officers apply a philosophy that comports substantially with basic drug court best practices. Research shows that with greater frequency

of tests, drug use reduces substantially and the potential for positive drug court program outcomes, both short and long term, is increased. Consequently, every direct contact between a drug court probation officer and a participant should include drug testing. Locations at which drug tests may be conducted include treatment agencies, homes, places of employment and any other public location where drug testing will not conflict with the best interests of the public safety and a participant's personal development.

**c. Drug Testing Guidelines for Drug Court Probation Officers**

Drug court probation officers use the following guidelines for drug testing:

- ▶ the minimum frequency of testing is determined by the phase and level of supervision;
- ▶ all possible contact opportunities must be utilized to conduct random or routine drug screening including office visits, home visits, and field call-ins;
- ▶ participants are tested with the most appropriate and current methods available;
- ▶ probation officers perform drug screens in compliance with procedures as outlined in Appendix G entitled *Urine Testing Information*;
- ▶ participants are tested for specific drugs when specific usages are suspected, and comprehensively for multiple drugs and alcohol when appropriate; and
- ▶ participants are tested for drug use based upon reasonable suspicion, observation or direct evidence **and randomly**.

**4. Transfer of Case Supervision**

Current drug court policy requires that a participant reside in the county in

which a drug court case is processed. Once drug courts become established statewide, a comprehensive drug court case transfer policy will be developed. In the meantime, to the extent possible, a court may consider transferring drug court supervision to the county where the offender resides only if that county has a drug court.

**a. Acceptance into the Program**

An application to a drug court program should entail residency screening which may include a home visit or require documentation of residency. If accepted into the drug court program, a participant must maintain residency in the county of drug court disposition unless or until the drug court team permits otherwise.

Any other exceptions to the in-county residency requirement should be made on a case by case basis and only with the approval of the drug court team based on the participant's circumstances. Supervision of a drug court participant may only be transferred to another New Jersey county with a drug court program or another state with same. A transfer should occur only if:

- ◆ it is approved by the drug court judge and team ; and
- ◆ standard probation procedures are followed for an in-state transfer or compliance with the Interstate Compact on Transfers occurs for a transfer involving another state.

**5. Notification Procedures**

N.J.S.A. 2C:35-14 requires inmate status for a period of at least six months for a drug court participant who is placed in a residential treatment program.

Instances in which a drug court participant leaves the program without authorization or has behaved in such a manner that removal from the program is necessary, a localized chain of notification should be implemented so that authorities can be contacted promptly and make a timely, proper response.

Although the notification procedures may vary slightly within individual drug courts, the basic principles of prompt contact, communication, and documentation are standard. These standards for notification involve the residential treatment program, the probation officer, the prosecutor, the drug court judge, the drug court team and the sheriff's department. The following key basic steps must be followed for notification procedures in each drug court.

**a. Key Steps: Response to Escape from Residential Treatment Program**

If a drug court participant sentenced pursuant to 2C:35-14 leaves a residential treatment facility without authorization, the following key steps must be taken:

Step 1. Residential program staff immediately contact the local police department to advise that an escape has occurred and furnish the police contact with appropriate information and cooperation.

Step 2. Residential program staff immediately contact the drug court probation officer or an alternate probation officer to advise that an escape has occurred.

Step 3. The drug court probation officer contact the drug court judge or a designated alternate to request that a bench warrant be issued, contact the drug court prosecutor or a designated alternate, if local procedures require, to advise that an escape has occurred; and prepare a violation of probation petition.

Step 4. The drug court probation officer must, even during nonbusiness hours if necessary, ensure that the proper local authorities have been contacted immediately so that apprehension of the fugitive participant can begin without delay.

**b. Key Steps: Response to Request for Removal from Residential Program**

If a residential treatment program desires to terminate the treatment of a drug court program participant and to request physical removal of that participant from the program, the following key steps must be taken:

Step 1. Residential program staff immediately notify the drug court probation officer, or an alternate officer, of the program's intent to terminate treatment. The program must clearly delineate in writing the reasons for the request for termination of treatment and for the removal of the participant from the program.

Step 2. If a participant poses a threat to self or others at the program, the program staff should contact both the police department and the drug court probation officer or a designated alternate for assistance.

Step 3. The drug court probation officer will prepare a bench warrant for the drug court judge's signature or a probation warrant to be faxed to the Sheriff's Department transportation unit for pick up of the participant. In drug courts where the probation officers participate in the removal of a participant, all field safety procedures must be followed.

Step 4. The drug court probation officer will immediately notify the drug court team of the defendant's removal from the facility and facilitate a transfer of the participant to the appropriate county jail. Documentation concerning the reasons for the removal, including a discharge summary, must be provided by the residential program to the probation officer.

Step 5. The drug court probation officer must file a violation of probation petition with the drug court, with proper documentation attached, within seven (7) days of the date of removal from the participant from the residential program.

**c. Key Steps: Response to Participant Request to Terminate Treatment**

If a drug court program participant requests to terminate treatment and be removed from a residential program, the following key steps are taken:

Step 1. Residential treatment program staff immediately contact the drug court probation officer to advise the officer, or his or her alternate, of the participant's desire to terminate treatment and be removed from the program.

Step 2. The drug court probation officer asks the treatment program about the participant's recent behavior to determine whether immediate removal from the program is necessary. If the participant is considered a threat for negative behavior in the program, the program should immediately contact local police. If the participant is not considered a threat for negative behavior in the program, the probation officer may speak to the participant or visit the residential treatment program to attempt to mediate the situation. If mediation attempts are unsuccessful, then the probation officer facilitates the removal of the participant by immediately contacting the Sheriff's Department transportation unit.

Step 3. The drug court probation officer must contact the drug court team promptly and file a petition for violation of probation with the drug court, with proper documentation attached, including a discharge summary from the residential program.

**d. Practical Considerations**

It is highly recommended that removal decisions be made during the course of the business day, when possible, so that all parties are available for coordination and communication. If the removal decision is made on a weekend or off hours and the immediate removal is needed, the residential program should refer to individual county notification to determine the emergency contact person to call.

Immediate removal should be completed in twenty-four hours or less from the time of the residential program's initial contact. In most instances, removal may not

be immediate since approvals must be obtained, documents drafted and signed, and removal arrangements facilitated. If at any time a participant becomes dangerous or the residential program is threatened, however, the program must contact the local police authorities to effectuate immediate action.

**6. Violations of Probation/Program Expulsion**

**a. Cases Sentenced Pursuant to N.J.S.A. 2C: 35-14**

N.J.S.A. 2C:35-14 requires specific responses to violations of special probation. A drug court probation officer must report an initial violation of the program or probation conditions, for which the drug court may revoke the special probation of the participant. This statute also requires that, for second violations, the Drug Court shall revoke the special probation.

If the drug court team decides after a second violation that the participant will likely complete treatment successfully and is not a danger to the community, special probation does not have to be revoked. In determining whether special probation is to continue after a second violation, input from the current treatment provider as well as changes to the treatment plan must be placed on the court record and considered by the drug court judge. If at any time a participant refuses to submit to a drug screen, that incident is treated as a positive test result and special probation may be revoked.

**b. Cases Sentenced Pursuant to Other Provisions of the Criminal Code**

For those cases not subject to N.J.S.A. 2C:35-14, the guidelines for filing violations of probation are not as strict. More flexibility is given to the drug court team in the sanctioning decision, and, therefore, formal petition for violation may not be the required response to a negative behavior. Drug court probation officers should seek approval of the team before filing a petition for violation of probation. The decision to initiate a violation of probation petition is based upon a comprehensive set of factors related to each individual case. A violation of probation should ordinarily be filed if a participant is not making an effort to progress positively, or who places himself or herself or the public's safety in danger by the lack of compliance with drug court and probation rules and conditions.

**c. Common Violation Causes**

A violation of probation petition in drug court should be filed only after the drug court team has determined that all treatment options have been exhausted and the participant is no longer working toward recovery. Evidence of this could be apparent in one or more of the following ways:

- commission and/or conviction of a new criminal offense;
- escape from a residential program while under inmate status;
- positive drug screen results;
- non-compliance with specific drug court program conditions;

- non-compliance with specific probation conditions or rules;
- non-attendance at treatment sessions.

In any drug court case in which a petition for violation of probation is submitted, the drug court probation officer will follow proper rules and procedures for the filing, with the necessary documentation both on paper for the drug court and for the probation record in CAPS.

**d. Warrants**

In the event a drug court participant is charged with a violation of probation, and upon any verbal approval by any judge authorized to issue bench warrants, the drug court participant shall be immediately apprehended and detained. Probation officers may enlist the support of local law enforcement agencies, including the Sheriff's Department and local police departments, to effect the arrest of such a drug court participant pursuant to guidelines such as those issued by the Administrative Office of the Courts for the authorization to arrest and detain a participant for a violation of probation.

**e. Discharge from Drug Court Probation Supervision**

A participant sentenced pursuant to N.J.S.A. 2C:35-14, must complete a full five-year term of special probation before being discharged from supervision. Early termination is not an option for these participants.

For a participant sentenced pursuant to any other provision in the Code of Criminal Justice, there is no statutorily required minimum term of probation

supervision. The program funding has been developed to provide for five years of drug court probation supervision for prison bound offenders and three years of drug court supervision for non-prison bound offenders. Discharge for successful completion of the drug court program should only be granted after a participant has completed a minimum of eighteen months of successful probation supervision although most participants will likely remain in the program for longer than eighteen months.

# **APPENDIX A**

**DRUG COURTS:  
A PLAN FOR STATEWIDE  
IMPLEMENTATION**



**DRUG COURTS**  
**A Plan For**  
**Statewide Implementation**

**New Jersey Judiciary**  
**December 2000**

# WHY DRUG COURTS?

**Drug courts have been more successful in generating cost savings, closely supervising drug offenders in the community, placing and keeping drug offenders in treatment programs, providing treatment and related services to offenders soon after arrest and substantially reducing drug use and recidivism while offenders are in the program.**

## Introduction

A revolution has been going on in the criminal justice system during the past ten years. It began at the grassroots level with a few people who realized that the old approach to the drug using offender – incarceration and more incarceration – wasn't working. As the numbers of accused drug offenders kept increasing, there were simply not enough jails and prisons to hold them.

Drug abuse is breaking up families, destroying lives and devastating our communities. It will take a new kind of team, with judges, prosecutors and defense attorneys, supervision and corrections officers, and rehabilitation and treatment providers working together to restore our communities.

*"The establishment of drug courts, with [their] judicial leadership, constitutes one of the most monumental changes in social justice in this country since World War II."*  
— General Barry McCaffrey, Director, Office of National Drug Control Policy

## Runaway Costs

Nationally, the problem of drug use and the crime it generates is as great today as it has been in the past. Despite efforts on the scale of waging a war against illegal drug use, the plague is still among us. There is an increasing awareness that simply incarcerating drug offenders has not, and cannot, resolve the underlying problem that caused the criminal activity. The costs of failing to adequately address the problem are staggering. The cost of continuing to build prisons to house offenders has skyrocketed. State budgets are being strained to deal with the cost of corrections. The cost of continued criminal activity to society can be measured by looking at drug addicted newborns, children in foster care, violence in neighborhoods, unsafe streets, unpaid child support and unemployable welfare recipients.

*"I've seen first hand... how a drug court can use its influence and authority to direct a nonviolent drug abuser to change behavior and lead a productive, drug-free life."*  
— Janet Reno, United States Attorney General

*"Our drug court program not only punishes the defendant for the crime committed, but addresses the root causes of drug use and drug-related crime. Our drug court employs a thorough evaluation process to be certain that the offender is amenable to treatment, counseling, and intensive supervision to be sure that the defendant adheres to the terms and conditions of admission into our drug court program. Our goal, which I believe is being achieved, is a reduction in the rate of recidivism."*

*-- Lee A. Solomon, Prosecutor, Camden County, New Jersey*

In New Jersey, especially with the enactment of the "Comprehensive Drug Reform Act of 1986," a major increase occurred in the number of arrests generally, the number of arrests in drug cases, and the percentage of those being sentenced to serve time in state institutions. A disproportionate percentage of inmates are minorities. Data provided by the New Jersey Department of Corrections show:

- Total inmate population increased by 457 percent from 1977 to 2000.
- The Corrections budget grew from \$92.3 million in 1980 to \$845.7 million in 1999.
- More than 42 percent of New Jersey's inmates report an "extreme" problem with drugs.

### **Impact On Minority Communities**

We are arresting more people, sentencing more people and incarcerating more people, but drug use and the crime it generates is still with us despite substantial efforts to eliminate it. Our minority communities are hardest hit. The "drug court" concept offers New Jersey an innovative strategy which addresses the underlying factors that contribute to criminal behavior and substance abuse and ultimately reduces drug use and recidivism.

- New Jersey's inmate population is 64 percent African American and 18 percent Hispanic.
- Early data show that New Jersey's five pilot drug courts address minority concerns since approximately 85 percent of offenders diverted from prison into drug courts are minorities.

*"Most drug offenders are white. Five times as many whites use drugs as blacks, but blacks comprise the great majority of drug offenders sent to prison. The solution to this racial inequity is not to incarcerate more whites, but to reduce the use of prison for low-level drug offenders and to increase the availability of substance abuse treatment."*

*-- Jamie Fellner, Associate Counsel, Human Rights Watch*

### **Major Benefits of Drug Courts**

- Significant cost savings from replacing the \$34,218 per inmate annual incarceration costs with less expensive treatment services for more than 1,000 cases per year.
- Reductions in recidivism and drug usage.

## WHAT ARE DRUG COURTS?

Drug courts are a highly specialized team process that function within the existing Superior Court structure to address nonviolent drug-related cases. They are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals. Within a cooperative courtroom atmosphere, the judge heads a team of court staff, attorneys, probation officers, substance abuse evaluators, and treatment counselors all working in concert to support and monitor a participant's recovery. Drug court programs are rigorous, requiring intensive supervision based on frequent drug testing and court appearances.

Drug court partnerships develop comprehensive and tightly structured regimens of treatment and recovery services. What's different is the continuing oversight and personal involvement of the drug court judge in the treatment process. By closely monitoring participants, the court is able to actively support the recovery process and react swiftly to impose appropriate therapeutic sanctions or to reinstate criminal proceedings when participants cannot comply with the program. Together, the drug court judge, prosecutor, defense attorney and treatment professionals maintain a critical balance of authority, supervision, support, and encouragement.

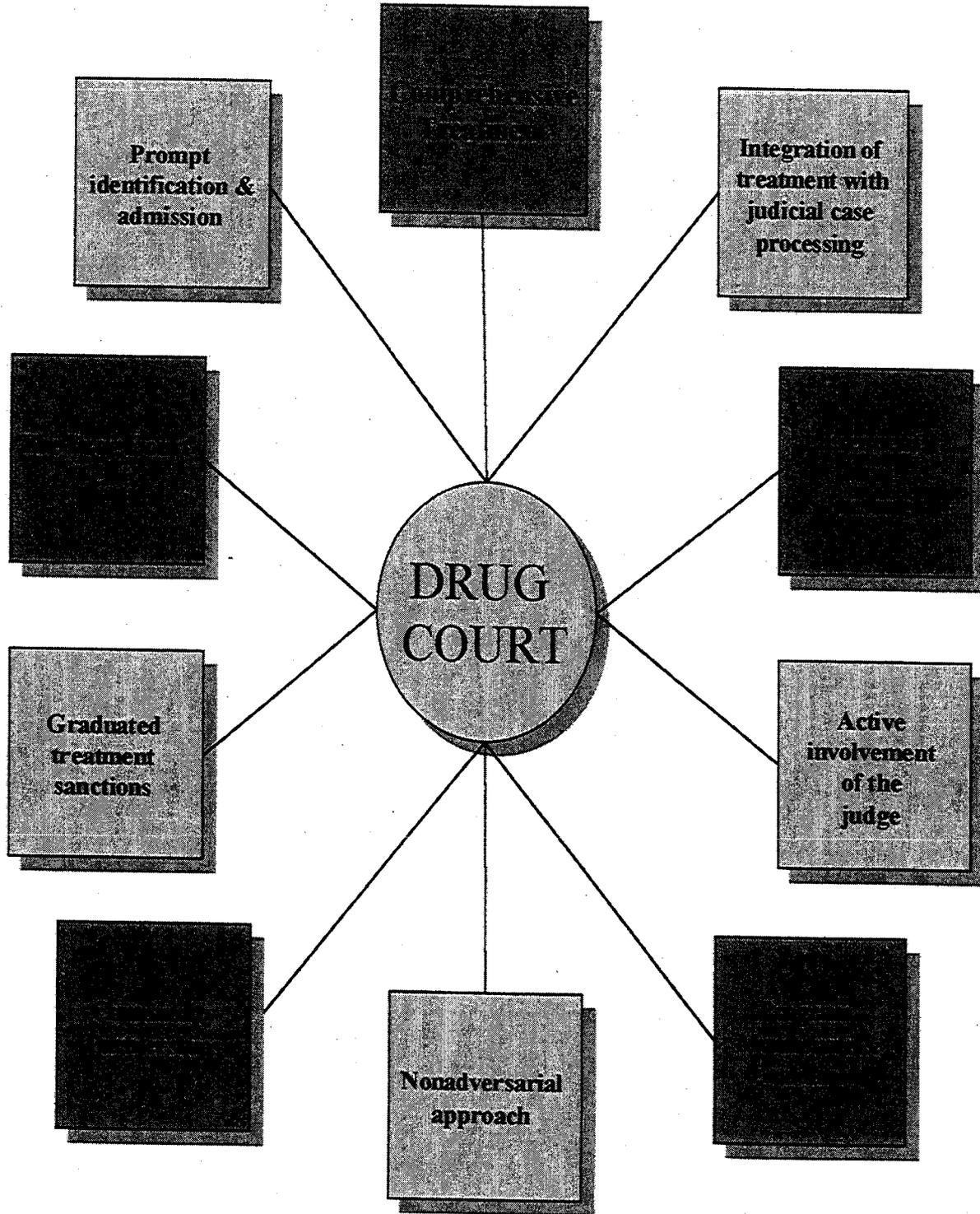
Drug Courts are special courts for drug-involved offenders. The courts

- Target offenders who are most likely to benefit from treatment and do not pose a risk to public safety.
- Provide tough and intensive supervision and treatment of offenders soon after arrest.
- Monitor participants' progress and apply swift sanctions for noncompliance.
- Maintain a critical balance of authority, supervision, support, and encouragement.
- Integrate alcohol and drug treatment services with justice system case processing.
- Offer an enhancement to the traditional adversarial court process.

*"Our experience with drug courts over the last decade is a shining testimonial to the ability of our justice system to deal with this aspect of the most complex health, social and legal issue of our time."*

—Philip S. Anderson, President, American Bar Association

# KEY COMPONENTS OF DRUG COURT



# HOW DO DRUG COURTS WORK?

Potential drug court defendants come under the court's supervision very soon after arrest. Upon acceptance to the drug court, participants begin an individually structured treatment program lasting generally from three to five years. Participants are required to attend treatment sessions, undergo random urinalysis, meet regularly with their probation officers, and appear frequently before the drug court judge.

## Traditional Court Versus Drug Court

The drug court process introduces a stream-lined approach to providing services and supervising nonviolent substance-abusing clients rather than just processing these cases through a series of courtroom events. Traditionally, the criminal court process begins at arrest and proceeds over a six-month time frame including bail, prosecutorial screening, indictment, arraignment, status conferences, motions, a possible trial, and sentencing. Little or no supervision or treatment services are available for the defendant until guilt is resolved. The unique collaborative characteristics of drug court allow for early and intense interventions which support community safety and client recovery.

### Traditional Court

- Judge, prosecutor, defense lawyer and courtroom staff approach a case primarily as a legal matter. The focus is on a defendant's guilt or innocence.
- Judge exercises limited role in supervision of defendant.
- Relapse, often undetected, may not be readily addressed.

### Drug Court

- Court team of judge, prosecutor, defense lawyer, addiction specialists, and probation officers identify appropriate cases for treatment and recovery.
- Judge plays central role in monitoring defendant's progress.
- Relapses are quickly detected and graduated sanctions applied.

## Who Gets In ?

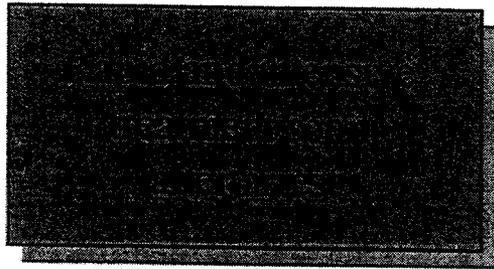
New Jersey's drug courts target substance abusing, nonviolent defendants who qualify based on the following criteria:

- No history of possession of a firearm during an offense.
- No previous convictions or pending charges for a serious violent offence.
- No convictions on two or more separate occasions (applies to School Zone cases only).
- No danger to the community is likely to result from the person being placed on probation.
- The person has a drug or alcohol dependence as determined by a diagnostic assessment, and substance abuse treatment and monitoring is likely to be a benefit.

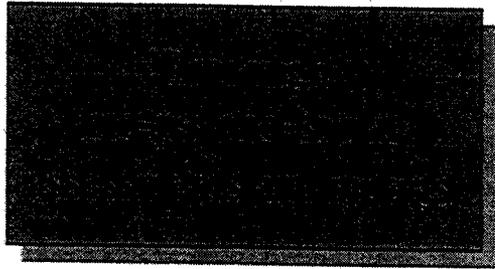
*"Offenders are admitted to drug court programs only after meticulous screening according to specific eligibility criteria. Defendants must admit their wrongdoing and their drug dependency must be germane to their wrongdoing. Those who offended solely out of a profit motive are ineligible, as are those with a history of violence. They must also agree to be subject to potential sanctions, such as earlier curfews, increased reporting requirements, more frequent urinalysis testing, extra community service hours, and essay and speech requirements. Short terms in jail may even be imposed after which participants are released to continue in the program."*

— Leadership New Jersey Class of 1998

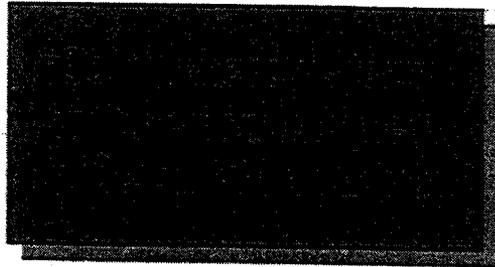
# DRUG COURT APPROACH



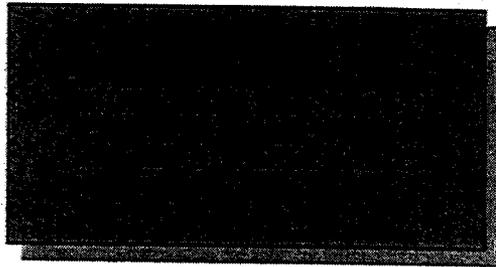
Working collaboratively, prosecutors, addiction specialists, and probation officers identify cases.



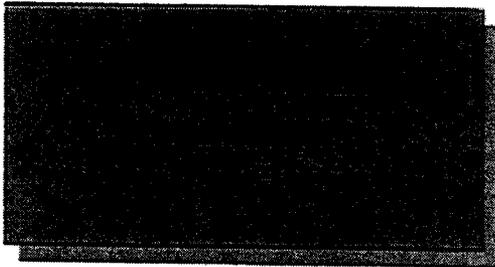
Addiction specialists determine treatment recommendations and available services.



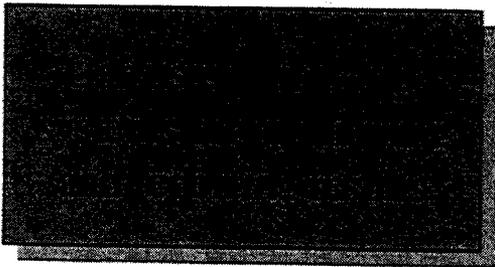
Teams conduct frequent status hearings, drug testing, probation supervision, and receive reports from treatment providers.



Sanctions ranging from increased treatment services, more frequent urinalysis, community service, and incarceration may be used.



Consistent improvement and goal accomplishments are rewarded during court sessions.



Computized database tools collect client information and readily generate reports.

# ARE DRUG COURTS SUCCESSFUL?

## National Reports

In 830 communities throughout the United States, drug courts are dramatically changing the way the criminal justice system deals with drug-using offenders. Since the first programs opened more than a decade ago, more than 200,000 defendants have entered drug court programs.<sup>1</sup>

### Research shows:<sup>2</sup>

- Drug use and criminal behavior are substantially reduced while clients are participating in drug court.
- Lower criminal behavior continues after program participation.
- Drug courts generate cost savings from reduced jail/prison use.
- Drug courts bridge the gap between the court and treatment systems, as well as between the criminal justice system and the community.
- Retention rates for drug courts average 67 percent. In contrast, lower retention rates are reported for traditional criminal justice programs.

*"... And ten years later, as I look back, it is hard to believe that anyone in the beginning could have foreseen the impact drug courts would have on today's criminal justice system. Just imagine what the next ten years may bring."*

**Judge Jeffrey Tauber, Former Director  
National Drug Court Institute**

### More than

- 1,000 drug-free babies have been born due to drug courts with an estimated savings of \$250,000 in reduced medical costs per baby.
- 3,500 parents have regained custody of children through drug courts.
- 4,500 defendants are re-engaged in child support payments due to drug court participation.
- 73 percent of drug court participants have retained or obtained employment.

*"I prayed to get locked up. I was seeing in my little son's face the pain I was causing him... The drug court program gave me back my pride, my dignity, and a new sense of focus."*  
— Drug Court Participant

<sup>1</sup> American University Drug Court Clearinghouse and Technical Assistance Project, 2000.

<sup>2</sup> National Center on Addiction and Substance Abuse, Columbia University, June 1998.

## New Jersey's Experience

- In 1995, Camden and Essex Counties received federal drug court planning grants which were followed by implementation grants in 1997. Union County and Ocean County received federal funds in 1999.
- In 1997, the Administrative Office of the Courts, in conjunction with the Governor's Advisory Council, the Attorney General's Office, the Department of Health, and the Department of Corrections, begin a plan for a Drug Court Initiative using state and federal funds.
- In 1997, Camden and Passaic Counties start drug courts for prison-bound cases. In 1999, similar programs begin in Essex, Union, and Mercer Counties.
- In 1999, the Chief Justice asks the Conference of Criminal Presiding Judges to review the existing adult drug courts and the potential for expansion.
- In May 2000, the Conference of Criminal Presiding Judges recommend drug courts as a "Best Practice."
- In June 2000, the Judicial Council adopts drug courts as a "Best Practice," and calls for a comprehensive statewide proposal.

### Reports indicate:

- More than 1,200 defendants have entered New Jersey's drug court pilots.
- Early data reports that between 67 percent to 79 percent of participants remain in the program.
- Reduced jail/prison costs by diverting jail-bed dollars into treatment services.
- Participants stay in treatment longer and report fewer relapses in comparison to defendants in other criminal justice processes.
- Families are being rebuilt and babies are being born drug-free from parents who were formerly severely drug-dependent.
- By partnering the intensive supervision concept with the drug court process, participant compliance with court orders and treatment improve.
- Greater cooperation and resource sharing among various agencies and institutions results in reduced systems costs and improved public safety.

*"Drug Court is about hope replacing despair, where accountability creates responsibility, and as a result both society and the participant benefit."*

*— Judge Stephen W. Thompson, Camden County Superior Court*

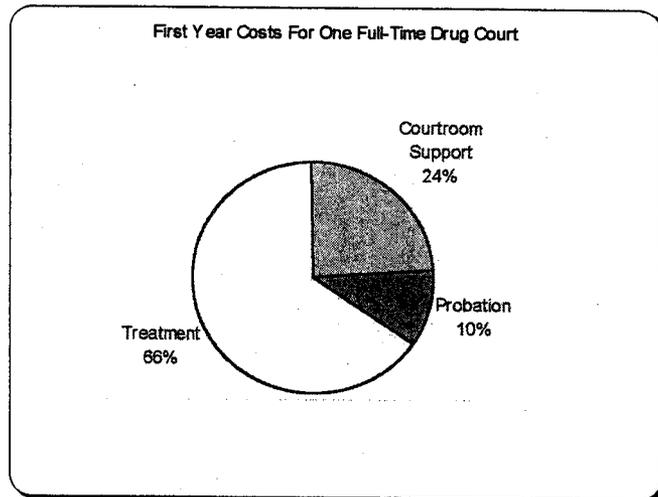
# WHAT DO DRUG COURTS COST?

**The initial annualized cost to put criminal drug courts in place statewide is \$28,305,424.**

The New Jersey Judiciary proposes that drug courts be implemented in all fifteen vicinages comprising the twenty-one counties. Drug court costs can be sorted into two categories, judiciary expenses and treatment expenses. While some costs will vary according to the size and caseload of a county, a statewide drug court consists of the components listed below:

## Judiciary Resources

- 1) **Six Judges with Courtroom Support**  
The typical drug court will meet two days per week, less in smaller counties.  
Six additional judges will be needed to conduct a program in every county.
- 2) **Fifteen Staff Teams, one for each vicinage**  
Coordinator  
Team Leader  
Substance Abuse Evaluator  
Investigator (supplied by vicinage)  
Secretary (supplied by vicinage)
- 3) **Probation Officers**  
One per 50 new cases, plus supervisors, clerical, drug testing, and other costs.
- 4) **Other Costs**  
Statewide Coordination  
Equipment  
Transportation



***Initial Annualized Judiciary Costs***                      ***\$7,327,571***

## Treatment Costs

The experience of our first five pilot drug courts suggests that at least five percent of the criminal convictions in every vicinage should be targeted for drug court participation in a statewide program. This amounts to about 1,875 cases statewide or 125 cases per vicinage. Based on need, various modalities of treatment are available for each participant including inpatient, intensive outpatient and outpatient care. Those participants who by statute require a minimum of six months inpatient treatment incur a minimum cost of \$10,000 for that portion of their treatment. Cases requiring six months minimum inpatient treatment make up 70 percent of the eligible cases. The average treatment cost per participant is estimated at \$11,188, most of which is incurred in the first year.

***Initial Annualized Treatment Costs***                      ***\$20,977,853***

# HOW WOULD STATEWIDE IMPLEMENTATION BEGIN?

The judiciary proposes a phased-in implementation of ten vicinages in FY 2002 and five vicinages in FY 2003. This allows for the time needed to develop treatment beds and also for startup delays. The FY 2002 budget allocation would require about \$14 million, \$4 million for the Judiciary and the remaining \$10 million for treatment.

## The Economic Advantage

- It costs \$34,218 to house an inmate in state prison for one year.
- It costs an average of \$17,266 to process that same offender through the first year of drug court, including six months of inpatient treatment.

New Jersey's comprehensive drug court model targets nonviolent substance abusing defendants and includes a balance of offenders who are otherwise prison-bound along with offenders facing less restrictive criminal supervision. By law, drug court cases diverted from prison terms participate in drug court for five years. Nonprison-bound drug court cases typically remain under drug court supervision for three years. These courts do cost less than the traditional post-adjudication process, and so they also save tax dollars. Noted below is a cost comparison attributed to a case beyond the cost for regular adjudication.

### Cost Per Case Comparison

#### Current Criminal Cost<sup>1</sup>

Prison-Bound Case	
First Year Cost	Final Year Cost
\$34,218	\$3,012
Total Five Year Cost = \$50,961	

Probation Cases <sup>3</sup>	
First Year Cost	Third Year Costs
\$1,967	\$743
Total Three Year Cost = \$3,453	

#### Drug Court Cost<sup>1</sup>

Prison-Bound Case <sup>2</sup>	
First Year Cost	Final Year Cost
\$17,266	\$1,748
Total Five Year Cost = \$32,475	

Probation Cases	
First Year Cost	Third Year Costs
\$9,537	\$1,382
Total Three Year Cost = \$13,692	

<sup>1</sup>In addition to the traditional cost for adjudication. <sup>2</sup>These cases require a minimum of six months inpatient treatment. <sup>3</sup>Thirty percent of these cases receive a county jail term as a condition of probation.

Additional ancilliary cost benefits are:

- Nationally over 1,000 babies have been born drug-free from formerly addicted mothers with an estimated savings of \$250,000 in reduced medical costs per baby.
- Drug court participants are expected to obtain employment, pay penalties, taxes, child support (if appropriate), victim restitution and otherwise meet financial obligations.
- National estimates are \$10 savings for every \$1 spent on drug court.
- The RAND Corporation found that for heavy users of cocaine, treatment costs one-seventh as much as enforcement to achieve the same reduction in cocaine use.

*"... There is no more sane or cost-effective measure that this state can adopt to improve the quality of life for us all than the full-time implementation of drug courts." — Leah McGarry Morris, First Asst. Public Defender, Camden County, NJ*

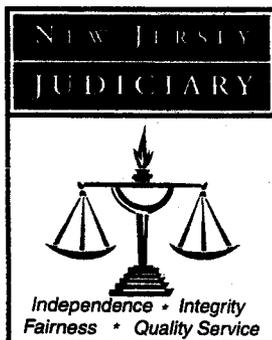
*"New Jersey is at a critical moment in the implementation of Drug Courts. Now is the time to secure long-term infrastructure and funding to expand the system and make it a permanent part of our criminal justice apparatus. But some remain concerned that it is still too early to tell if Drug Courts work well enough to merit unqualified support. The full report of our research demonstrates that, properly institutionalized, Drug Courts can engender significant cost-savings and improve the quality of life for all citizens of New Jersey.*

*Now is the time to embrace, carefully implement, and sustain the Drug Court approach. Rather than defining its criminal justice policies by whether they are "tough" or "soft," New Jersey should ensure that they are smart and effective.*

*The state can no longer afford business as usual. The accelerating cost of incarceration consumes resources that are badly needed to improve education, expand the availability of health care, and meet other urgent priorities. Scarce prison space should be reserved for violent offenders.*

*Nonviolent offenders whose crimes were driven by their addiction should be punished, but also treated to prevent future crime. Drug Courts, nationally and in New Jersey, have shown they can do that. Now is the time to increase their capacity to meet needs throughout the state."*

**Leadership New Jersey Class of 1998**



For More Information contact:

Administrative Office of the Courts  
Criminal Practice Division  
P.O. Box 982  
Trenton, New Jersey 08625  
Telephone: 609-292-4638  
Fax: 609-292-9659

# **APPENDIX B**

**DRUG COURT LEGISLATION**

**L. 2001, C. 243**

2001 NJ Sess. Law Serv. Ch. 243 (SENATE 2227 and 1245) (WEST)

NEW JERSEY 2001 SESSION LAW SERVICE  
Two Hundred Ninth Legislature, Second Annual Session  
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Additions are indicated by <<+ Text +>>; deletions by <<- Text ->>.  
Changes in tables are made but not highlighted.

CHAPTER 243  
SENATE Nos. 2227 and 1245  
JUDGES--SUPERIOR COURT

Ch. 243

AN ACT creating six additional Superior Court judgeships and providing for the support of additional court staff and substance abuse treatment, amending N.J.S.2B:2-1 and making various appropriations.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

Ch. 243, s 1

1. [FN1] N.J.S.2B:2-1 is amended to read as follows:

<< NJ ST 2B:2-1 >>

2B:2-1. Number of Judges. a. The Superior Court shall consist of <<- 428->> <<+434+>> judges.

b. (1) The Superior Court shall at all times consist of the following number of judges, who at the time of their appointment and reappointment were resident of each county:

Atlantic .....	11
Bergen .....	<<-27->> <<+28+>>
Burlington .....	10
Camden .....	16
Cape May .....	4
Cumberland .....	7
Essex .....	34
Gloucester .....	<<-10->> <<+11+>>
Hudson .....	24

Hunterdon .....	3
Mercer .....	9
Middlesex .....	24
Monmouth .....	<<-17->> <<+18+>>
Morris .....	<<-15->> <<+16+>>
Ocean .....	15
Passaic .....	17
Salem .....	3
Somerset .....	6
Sussex .....	4
Union .....	20
Warren .....	3

(2) Additionally, the following number of those judges of the Superior Court satisfying the residency requirements set forth above shall at all times sit in the county in which they reside:

Atlantic .....	4
Bergen .....	12
Burlington .....	4
Camden .....	8
Cape May .....	2
Cumberland .....	4
Essex .....	14
Gloucester .....	6
Hudson .....	6
Hunterdon .....	2
Mercer .....	6
Middlesex .....	8
Monmouth .....	4
Morris .....	6
Ocean .....	8
Passaic .....	6
Salem .....	2
Somerset .....	4
Sussex .....	2
Union .....	6
Warren .....	2

<< Note: NJ ST 2B:2-1 >>

2. [FN2] There is appropriated to the Administrative Office of the Courts from the General Fund \$972,000 for costs associated with the additional judgeships created by this act.

Ch. 243, s 3

<< Note: NJ ST 2B:2-1 >>

3. [FN3] There is appropriated to the Administrative Office of the Courts from the General Fund \$1,458,000 for staff associated with the operation of the drug courts.

Ch. 243, s 4

<< Note: NJ ST 2B:2-1 >>

4. [FN4] There is appropriated to the Department of Health and Senior Services, Division of Addiction Services from the General Fund \$1,570,000 for in-patient and out-patient substance abuse treatment for adult and juvenile criminal offenders.

Ch. 243, s 5

<< Note: NJ ST 2B:2-1 >>

5. [FN5] Sections 1, 2 and 3 of this act shall take effect January 1, 2002 and section 4 of this act shall take effect April 1, 2002.

Ch. 243, Approved September 6, 2001.

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Creates six Superior court judgeships to allow expansion of drug court program; provides appropriations for court staff and substance abuse treatment.

[FN1] N.J.S.A. 2B:2-1.

[FN2] N.J.S.A. 2B:2-1 Note.

[FN3] N.J.S.A. 2B:2-1 Note.

[FN4] N.J.S.A. 2B:2-1 Note.

[FN5] N.J.S.A. 2B:2-1 Note.

# **APPENDIX C**

**LIST OF LICENSED AND APPROVED  
DRUG COURT TREATMENT PROVIDERS**

**NJ DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**DIVISION OF ADDICTION SERVICES**

**DRUG COURT AGENCIES**

**(EFFECTIVE 7/1/02)**

Completed by: J. Miller  
7/10/02

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➤ Mercer - - - - -	8
➤ Monmouth - - - - -	9
➤ Morris/Sussex - - - - -	9
➤ Ocean - - - - -	9
➤ Passaic - - - - -	10
➤ Union - - - - -	10

**DRUG COURT**  
**LONG TERM RESIDENTIAL TREATMENT**

**CURA, Inc.**

Community United for Rehab of Addiction  
P.O. Box 180  
Newark, NJ 07101-0180  
Phone: (973) 622-3570  
Fax: (973) 621-8330

**Damon House, Inc.**

105 Joyce Kilmer Avenue  
New Brunswick, NJ 08901  
Phone: (732) 828-6002  
Fax: (732) 828-3581

**Discovery, Inc.**

Marlboro State Hospital  
Route 520  
P.O. Box 177  
Marlboro, NJ 07746  
Phone: (732) 946-9444  
Fax: (732) 946-0758

**Institute for Human Development**

1315 Pacific Avenue  
P.O. Box 597  
Atlantic City, NJ 08401-7267  
Phone: (609) 345-4035 x286  
Fax: (609) 345-2531

**Faith Farm, Inc.**

21 Stretch Road  
Bridgeton, NJ 08302-9295  
Phone: (856) 455-6145  
Fax: (856) 453-0093

**Integrity House, Inc.**

103 Lincoln Park  
P.O. Box 510  
Newark, NJ 07102  
Phone: (973) 623-0600  
Fax: (973) 623-1862  
(Newark & Secaucus sites)

**Post House**

610 Pemberton-Browns Mills Road  
P.O. Box 257  
New Lisbon, NJ 08064  
Phone: (609) 265-7884  
Fax: (609) 894-8964

**Straight & Narrow, Inc.**

508 Straight Street  
P.O. Box 2738  
Paterson, NJ 07509  
Phone: (973) 345-6000 x233  
Fax: (973) 345-7279

**Rescue Mission of Trenton**

98 Carroll Street  
P.O. Box 790  
Trenton, NJ 08605-0790  
Phone: (609) 393-3533  
Fax: (609) 695-5199

**DRUG COURT**  
**SHORT TERM RESIDENTIAL & HALFWAY HOUSE**

**Anderson House**

532 Route 523  
P.O. Box 134  
Whitehouse Station, NJ 08889  
Phone: (908) 534-5818  
Fax: (908) 534-8871  
Director: Joanne Furze

**Amity House (Women)**

209-211 Garden Street  
Mount Holly, NJ 08060  
Phone: (609) 267-6182  
Fax: (609) 265-2763  
Director: Diane Dooher

**Amity House (Men)**

1004 High Street  
Burlington, NJ 08016  
Phone: (609) 267-6182  
Fax: (609) 265-6182  
Director: Diane Dooher

**Crawford House**

362 Sunset Road  
Skillman, NJ 08558  
Phone: (908) 874-5153  
Fax: (908) 874-4733  
Director: Linda Leyhane

**Discovery Inc.**

Marlboro State Hospital  
Route 520  
P.O. Box 177  
Marlboro, NJ 07746  
Phone: (732) 946-9444  
Fax: (732) 946-0758

**Epiphany House, Inc.**

300 4<sup>th</sup> Avenue  
Asbury Park, NJ 07712  
Phone: (732) 775-0720  
Fax: (732) 775-7840  
Director: Sister Janet Christenon

**Eva's Kitchen & Sheltering Programs**

393 Main Street  
Paterson, NJ 07501  
Phone: (973) 523-6220  
Fax: (973) 684-2304  
Director: Mack Mills

**Freedom House, Inc.**

3 Pavilion Road  
P.O. Box 367  
Glen Gardner, NJ 08826  
Phone: (908) 537-6043  
Fax: (908) 806-4290  
Director: Fredrick Reihl

**Good News Home For Women, Inc.**

33 Bartles Corner Road  
Flemington, NJ 08822  
Phone: (908) 782-4132  
(908) 806-7913  
Fax: (908) 806-4290  
Director: Ernestine Winfrey

**Hendrick's House**

543 Northwest Boulevard  
Vineland, NJ 08360  
Phone: (856) 794-2443  
Fax: (856) 205-9277

**Maryville, Inc.**

1903 Grant Avenue  
Williamstown, NJ 08094  
Phone: (856) 629-0244  
Fax: (856) 456-6003

**Mrs. Wilson's Halfway House**

56 Mt. Kemble Avenue  
Morristown, NJ 07960  
Phone: (973) 540-1781  
Fax: (973) 539-9626  
Director: Barbara Davis

*SHORT TERM RESIDENTIAL & HALFWAY HOUSE (cont.)*

**New Hope Foundation-Marlboro**

Mattie House

86 Conover Road

Marlboro, NJ 07746

Phone: (732) 946-3030

Fax: (732) 946-0514

Director: Anthony Comerford, Ph.D.

**DRUG COURT**  
**DETOX**

**Institute for Human Development**

1315 Pacific Avenue  
Atlantic City, NJ 08401  
Phone: (609) 345-4035  
Fax: (609) 345-1160  
Director: Milicent Tate

**Maryville, Inc.**

1903 Grant Avenue  
Williamstown, NJ 08094  
Phone: (856) 629-0244  
Fax: (856) 629-3760  
Director: John Callahan

**New Hope Foundation, Inc.**

546 County Road  
Route 520  
Marlboro, NJ 07746  
Phone: (732) 946-3030  
Fax: (732) 946-3507  
Director: Anthony Comerford

**St. Clare's Hospital**

130 Powerville Road  
Boonton, NJ 07005  
Phone: (973) 316-1808  
Fax: (973) 316-1829  
Director: Jean Broneck-Zaccone

**Sunrise House Foundation**

37 Sunset Inn Road  
P.O. Box 6000  
Lafayette, NJ 07848  
Phone: (973) 383-6300  
Fax: (973) 383-3940  
Director: Philip Horowitz

**Turning Point, Inc.**

125 Fairview Avenue  
P.O. Box 111  
Cedar Grove, NJ 07009  
Phone: (973) 239-9400 ext. 111  
Fax: (973) 239-2744  
Director: Manuel Guantez

**DRUG COURT**  
**INTENSIVE OUTPATIENT & OUTPATIENT**

**Bergen Regional Medical Center**

230 East Ridgewood Avenue  
Paramus, NJ 07652  
Phone: (201) 967-4194  
Fax: (201) 967-4182

**Catholic Charities**

305 Broad Street  
Asbury Park, NJ 07712  
Phone: (732) 897-7701  
Fax: (732) 428-0949

**Community YMCA**

166 Main Street  
Matawan, NJ 07747  
Phone: (732) 290-9040  
Fax: (732) 566-0433

**CPC Behavioral Health**

Addiction Recovery Services  
270 Highway 35  
Red Bank, NJ 07701  
Phone: (732) 842-2000 x4203  
Fax: (732) 219-0474

**Cumberland County Health Dept.**

72 North Pearl Street  
Bridgeton, NJ 08302  
Phone: (856) 451-3727 x33  
Fax: (856) 455-9760

**Daytop Village**

P.O. Box 556  
Mount Freedom, NJ 07970  
Phone: (973) 539-5764  
Fax: (973) 539-589

**Jersey Shore Addiction Services**

1200 Memorial Drive  
Asbury Park, NJ 07712-5008  
Phone: (732) 988-8877  
Fax: (732) 988-2572

**Paterson Counseling**

319-21 Main Street  
Paterson, NJ 07505  
Phone: (973) 523-8316  
Fax: (973) 523-5116

**Saint Clare's**

130 Powerville Road  
Boonton, NJ 07505  
Phone: (973) 316-1899  
Fax: (973) 316-1829

**SODAT of NJ, Inc.**

124 North Broad Street  
Woodbury, NJ 08096-1720  
Phone: (609) 845-6363  
Fax: (609) 848-3022

**Vantage Health System**

2 Park Avenue  
Dumont, NJ 07647  
Phone: (201) 385-4400  
Fax: (201) 385-9689

*INTENSIVE OUTPATIENT & OUTPATIENT (cont.)*

**Hope House-Catholic Charities**

19-21 Belmont Avenue  
Dover, NJ 07801  
Phone: (973) 361-5555 x131

**Center for Family Services  
Substance Abuse Program**

1 Alpha Avenue  
Suite 43  
Voorhees, NJ 08043  
Phone: (856) 428-5688  
Fax: (856) 428-0949  
TTD: (856) 428-8373

**Bergen County Dept. of Health  
Addiction Recovery Program**

151 Hudson Street  
Hackensack, NJ 07601  
Phone: (201) 646-3336  
Fax: (201) 646-2707  
Director: Colleen Costello

**Van Ost Institute for Family Living**

150 East Palisades Avenue  
Englewood, NJ 07631-2508  
Phone: (201) 569-6667  
Fax: (201) 569-7504  
Director: William Carlos, Jr.

**West Bergen Mental Health  
Care Center**

120 Chestnut Street  
Ridgewood, NJ 07450  
Phone: (201) 444-3550  
Fax: (201) 652-1613  
Director: Philip Wilson

**CAMDEN**

**Alcohol & Substance Abuse Prog.**

Michael J. Piero Center for Human Svs.  
P.O. Box 88  
Blackwood, NJ 08012  
Phone: (856) 374-6316  
Director: Juanita Johnson-Clark

**Alcove Addictions Program  
Virtua-West Jersey Health System, Inc.**

1000 Atlantic Avenue  
Camden, NJ 08104  
Phone: (856) 246-3505  
Fax: (856) 246-3506  
Director: Kevin Gregan

**Center for Family Services, Inc.**

1 Alpha Avenue  
Suite 43  
Voorhees, NJ 08043  
Phone: (856) 428-5668  
Fax: (856) 428-0949  
Director: Ann Wanamaker

**Genesis Counseling Center**

566 Haddon Avenue  
Collingswood, NJ 08108  
Phone: (856) 858-9314  
Fax: (856) 858-5672  
Director: Gabriel Guerrier

**My Father's House, Inc.**

04 North King Street  
Gloucester City, NJ 08030  
Phone: (856) 742-0900  
Fax: (856) 742-0811  
Director: Miriam Broderick

**Sikora Center, Inc.**

613-615 Clinton Street  
P.O. Box 477  
Camden, NJ 08103  
Phone: (856) 963-1312  
Fax: (856) 963-2727  
Director: Susan Smith

*INTENSIVE OUTPATIENT & OUTPATIENT (cont.)*

CUMBER/GLOUC/SALEM

**Cumberland County Alcohol & Drug  
Prog. – Step Up Program**

72 N. Pearl Street  
Bridgeton, NJ 08302  
Phone: (856) 451-3727  
Fax: (856) 455-9706  
Director: Juanita Nazario

**SODAT of New Jersey, Inc.**

124 North Broad Street  
Woodbury, NJ 08096  
Phone: (856) 845-6363  
Fax: (856) 848-3022  
Director: Jeff Clayton

**The Wounded Healer, Inc.**

8 North Broadway  
3<sup>rd</sup> Floor  
Pitman, NJ 08701  
Phone: (856) 582-0001  
(856) 582-4343  
Fax: (856) 589-2629  
Director: Jacqueline Swift

*INTENSIVE OUTPATIENT & OUTPATIENT (cont.)*

ESSEX

**The Bridge, Inc.**

14 Park Avenue  
Caldwell, NJ 07066  
Phone: (973) 228-3000  
Fax: (973) 228-2742  
Director: Stanford Brown

**Catholic Community Services**

1160 Raymond Boulevard  
Newark, NJ 07102  
Phone: (973) 639-6508  
Fax: (973) 596-4105  
Director: Ronald Finch

**Family Connections, Inc.**

395 South Center Street  
Orange, NJ 07050  
Phone: (973) 675-3817  
Fax: (973) 673-5782  
Director: Paula Sabreen

**East Orange General Hospital**

Road Program  
300 Central Avenue  
East Orange, NJ 07019  
Phone: (973) 266-8530  
Fax: (973) 266-8456  
Director: Sandra Austin-Benn

**St. Michael's Medical Center  
Addiction Services**

268 Martin Luther King, Jr., Blvd.  
Newark, NJ 07103  
Phone: (973) 242-6222  
Fax: (973) 648-9184  
Director: Carolyn Rose

MERCER

**Catholic Charities Alcoholism  
Addictions Program**

47 North Clinton Avenue  
Trenton, NJ 08609  
Phone: (609) 392-1200  
Fax: (609) 695-6978  
Director: Charlotte Grodski

**Corner House – Township of Princeton**

369 Witherspoon Street  
Princeton, NJ 08050  
Phone: (609) 924-8018  
Fax: (609) 497-9101  
Director: Gary DeBlasto

**New Horizons Treatment Services, Inc.**

132 Perry Street  
Trenton, NJ 08618  
Phone: (609) 394-8988  
Fax: (609) 394-8922  
Director: Luis Nieves

*INTENSIVE OUTPATIENT & OUTPATIENT (cont.)*

MONMOUTH

**Catholic Charities – Project Free  
Monmouth Behavioral Health Services**

305 Broad Street – Suite 202  
Asbury Park, NJ 07712  
Phone: (732) 897-7701  
Fax: (732) 897-7705

**CPC Behavioral Healthcare Inc.**

270 Highway 35  
Red Bank, NJ 07001  
Phone: (732) 842-2000  
Fax: (732) 224-0688  
Director: Vera Sansone

**Epiphany House, Inc.**

300 4<sup>th</sup> Avenue  
Asbury Park, NJ 07112  
Phone: (732) 775-0720  
Fax: (732) 775-7840  
Director: Sister Janet Christenson

**Jersey Shore Addiction Services, Inc.**

1200 Memorial Drive  
Suite One  
Asbury Park, NJ 07712  
Phone: (732) 988-8877  
Fax: (732) 988-2572  
Director: Edward Higgins

**The Community YMCA Family Services**

166 Main Street  
Matawan, NJ 07747  
Phone: (732) 290-9040  
Fax: (732) 566-0433  
Director: Jan Krolack

MORRIS/SUSSEX

**Catholic Social Services – Hope House**

19-21 Belmont Avenue  
P.O. Box 851  
Dover, NJ 07802  
Phone: (973) 361-5565  
Fax: (973) 361-5290  
Director: Philomena D'Sea

**Daytop Village**

80 West Main Street  
Mendham, NJ 07945  
Phone: (973) 543-5656  
Fax: (973) 543-7502  
Director: Joseph Hennen

OCEAN

**Counseling & Referral Services  
of Ocean, Inc.**

270 Chambers Bridge Road  
Suite 10  
Brick, NJ 08723  
Phone: (732) 920-2700  
Fax: (732) 262-0707  
Director: Michael Hanlon

**Kimball Behavioral Health**

161 Us Highway 9  
CN 2095  
Toms River, NJ 08754  
Phone: (732) 914-1688  
Fax: (732) 914-0115  
Director: Anthony Harold

**Preferred Behavioral Health  
of New Jersey, Inc.**

700 Airport Road  
Lakewood, NJ 08701  
Phone: (732) 367-4700  
Fax: (732) 364-2253  
Director: Evelyn Sullivan

**Southern Ocean Counseling, Inc.**

367 Route 9  
Warretown, NJ 08758  
Phone: (609) 713-1565  
Fax: (609) 597-7933  
Director: Patricia Hanley

INTENSIVE OUTPATIENT & OUTPATIENT (cont.)

PASSAIC

**Eva's Kitchen & Sheltering Program**

393 Main Street  
Paterson, NJ 07501  
Phone: (973) 523-6220  
Fax: (973) 684-2304  
Director: Mack Mills

**House of Hope, Inc.**

204-208 21<sup>st</sup> Avenue  
Paterson, NJ 07501  
Phone: (973) 345-5200  
Fax: (973) 345-6560  
Director: Denis Ross

**New Life Recovery Center, Inc.**

1810 Malopin Road  
West Milford, NJ 07480  
Phone: (973) 728-7788  
Fax: (973) 728-7410  
Director: Skip McLaughlin

**Northeast Life Skills Associates, Inc.**

121 Howe Avenue  
Passaic, NJ 07055  
Phone: (973) 777-2962  
Fax: (973) 777-7623  
Director: Jeanne Palmer

**Recovery Services, Inc.**

476 Clifton Avenue  
Clifton, NJ 07011  
Phone: (973) 478-0049  
Fax: (973) 478-6487  
Director: Bennie Martin

**Wayne Counseling & Family Services**

1022 Hamburg Turnpike  
Wayne, NJ 0740  
Phone: (973) 694-1234  
Fax: (973) 633-0992  
Director: Thomas J. McArdle, Jr.

UNION

**Catholic Charities**

**Mt. Carmel Guild**  
505 South Avenue E  
Cranford, NJ 07016  
Phone: (908) 497-3904  
Fax: (908) 709-9612  
Director: Robin Wilson

**Muhlenberg Regional Medical Center  
Steps Recovery Center**

Randolph Road  
Plainfield, NJ 07061  
Phone: (908) 668-2095  
Fax: (908) 226-4553  
Director: Dr. Mary Ellen Harris

**Organization for Recovery, Inc.**

519 North Avenue  
P.O. Box 827  
Plainfield, NJ 07061  
Phone: (908) 769-4700  
Fax: (908) 769-8833  
Director: Linda Voorhis

**Trinitas Hospital**

655 East Jersey Street  
Elizabeth, NJ 07201  
Phone: (908) 994-7438  
Fax: (908) 994-7170  
Director: Michael Fahey

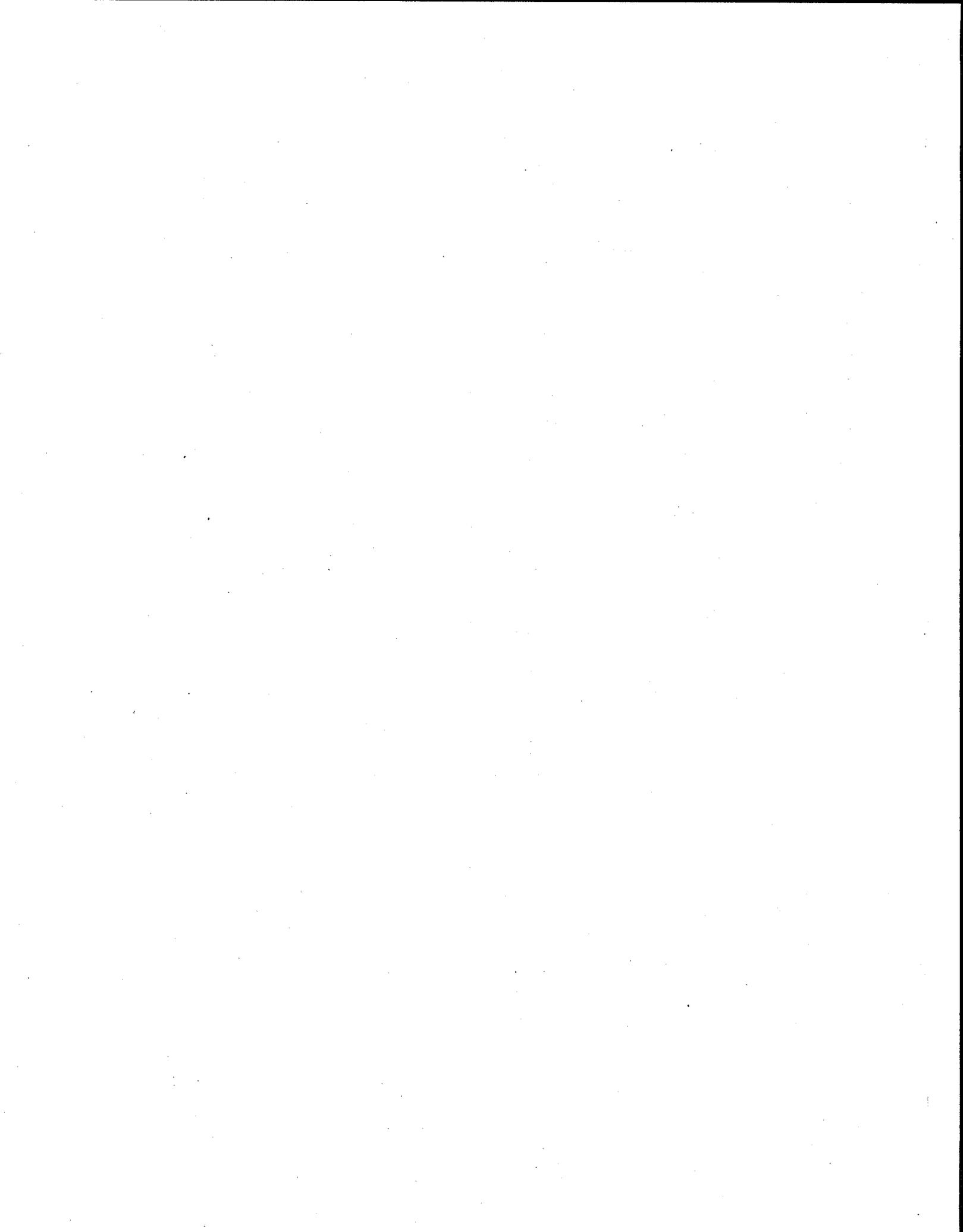
# **APPENDIX D**

**PROCEDURES FOR REPORTING  
VIOLATIONS  
AND ISSUING PASSES AND FURLOUGHS**

**NEW JERSEY  
DRUG COURT INITIATIVE  
PROGRAM**

**UNIFORM PROCEDURES  
FOR REPORTING VIOLATIONS  
AND ISSUING PASSES/FURLOUGHS**

July 29, 1999



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## **INTRODUCTION**

The purpose of this Memorandum is to establish uniform procedures to be used by treatment providers in handling Drug Court Initiative program participants who are sentenced pursuant to N.J.S.A. 2C:35-14. Compliance with the requirements set forth in this Memorandum is made an express condition of a treatment provider's continued participation in the Drug Court Initiative program.

The provisions of this Memorandum take effect immediately and supersede any pre-existing policies and procedures. The Letter of Agreement between the Department of Health and Senior Services, Division of Addiction Services, and treatment providers, executed on or about June 18, 1998, shall be amended to reflect and incorporate the provisions of this Memorandum.

### **1. REQUIREMENTS FOR REPORTING VIOLATIONS**

#### **1. General Considerations**

Treatment providers participating in the Drug Court Initiative must report to the sentencing court and/or probation department and the prosecutor (and, in some instances, the appropriate police department) all significant failures or violations of program rules or terms or conditions of probation by any person sentenced under N.J.S.A. 2C:35-14. It is understood that it is essential to the success of the program that treatment providers comply with these reporting requirements so as to maintain the confidence of the Judiciary, prosecutor, and the public in the integrity of the program, and to ensure compliance with the legal requirements established by the Legislature in N.J.S.A. 2C:35-14. Providers will be responsible for ensuring that all paid and unpaid staff members are familiar and comply with these reporting requirements.

#### **2. Definitions**

For the purposes of this Memorandum, the term "significant failure or violation" includes, but is not limited to:

- ▶ Conduct constituting an "escape" (e.g., unauthorized absence from a treatment facility; leaving the presence of an assigned escort during an authorized pass or furlough; or failure to return to the facility in accordance with the terms and conditions of an authorized pass or furlough). Note that the escape provision applies only to persons committed to a residential treatment facility under N.J.S.A. 2C:35-14. The reporting requirement continues for as long as the person is committed to the facility and may extend beyond the minimum six-month residential stay mandated by law.
  
- ▶ A positive urine test or any other indication that the person has used or is using or is under the influence of a controlled dangerous substance or alcohol.

- ▶ **Unlawful possession or use of a controlled dangerous substance or drug paraphernalia. Information concerning suspected possession or use of a controlled dangerous substance or paraphernalia must be reported even if the substance or item is not in the physical custody of a paid or unpaid staff member (e.g., the drugs are consumed or destroyed by a client before they can be seized and secured). Note that treatment providers and all paid and unpaid staff members must preserve any suspected controlled dangerous substance or drug paraphernalia that may come into their possession or custody, and must promptly turn over any such suspected substance or paraphernalia to law enforcement authorities, along with all information concerning the complete "chain of custody," including but not limited to information concerning where the substance or item was found and the identity of all persons believed to have been in actual, joint, or constructive possession of the substance or item. Under New Jersey law, it is an offense to dispose of a controlled dangerous substance by any means other than by turning over the substance to a law enforcement officer, see N.J.S.A. 2C:35-10c, and it is an indictable crime to destroy evidence of criminal activity.**
  
- ▶ **The possession, use, or threatened use of any weapon, including but not limited to a firearm.**
  
- ▶ **Any act of violence or threat to commit an act of violence.**
  
- ▶ **Failure to comply with the recommended treatment plan.**
  
- ▶ **Refusal to submit to urinalysis or any other form of drug or alcohol testing.**
  
- ▶ **Any attempt, whether successful or not, to tamper with a sample to be submitted for urinalysis, or otherwise to attempt to impede or invalidate a drug test or to produce a false drug test result.**

3. Warning Notice to Defendants and Required Waiver of Confidentiality

All persons sentenced to the Drug Court Initiative program shall be advised that significant failures and violations must and will be reported, and may constitute grounds for revoking probation or imposing such other sanctions as may be appropriate or required by law. The treatment provider shall be responsible for securing and keeping on file all written waivers of confidentiality, see 42 C.F.R. Pt. II, as may be necessary to ensure strict and timely compliance with these reporting requirements. The failure by a defendant to sign and execute a written waiver necessary to comply with the requirements of this Memorandum shall be reported immediately to the court, probation department, and prosecutor.

4. Timeliness in Reporting Violations

A significant failure or violation must be reported to the appropriate court or law enforcement officials within twenty-four (24) hours of the time that any paid or unpaid staff member first learns of the violation or significant failure, provided, however, that any conduct constituting an escape must be reported to local law enforcement authorities and/or to the county prosecutor within one (1) hour of the time that any paid or unpaid staff member first learns of the conduct constituting an escape, and further provided that any conduct involving the possession, use, or threatened use of a firearm must be reported *immediately* to appropriate law enforcement authorities.

5. Who to Report Violations to

All significant failures or violations must be reported by the provider to the probation department that is responsible for supervising the Drug Court Initiative Program participant *and* to the county prosecutor's office that handled the case. In addition, any significant failure or violation that involves an escape or a new criminal offense (e.g., assault, terroristic threat, possession of a controlled dangerous substance, etc.) must also be reported to the police department having jurisdiction where the offense was committed (e.g., the treatment facility). Providers should keep on file the telephone numbers of all appropriate probation departments, prosecutor's offices, and police departments. Where the provider is required pursuant to § 5 to report an incident immediately or within one (1) hour (i.e., an incident involving a firearm or an escape), it shall not be sufficient to leave a message on an answering machine or to activate a paging device; rather, it shall be the responsibility of the provider to speak directly to a representative from the appropriate law enforcement office to explain the circumstances of the incident within one (1) hour of the time that any paid or unpaid staff member first learned of the incident. Notwithstanding any other provision of this Memorandum, where the conduct involves a firearm, the matter shall be reported *immediately* to the police department having jurisdiction where the incident occurred by means of the 9-1-1 system. Making such a call to the local police department shall not eliminate the provider's obligation to also notify the probation department that is responsible for supervising the program participant and the prosecutor's office that handled the participant's case.

## 6. Destruction or Tampering With Evidence

Under no circumstances shall a paid or unpaid staff member, or any person acting on behalf of, at the request of, or with the express or implied permission of a paid or unpaid staff member, destroy, conceal, or tamper with any evidence of a criminal violation or violation of probation, including chain of custody evidence. All physical evidence (e.g., drugs, weapons, paraphernalia, etc.) shall be secured until such evidence has been turned over to appropriate probation or law enforcement authorities. Paid or unpaid staff members are subject to being called as witnesses in a criminal prosecution or probation revocation proceeding concerning the significant failure or violation.

## 2. AUTHORITY OF TREATMENT PROVIDERS TO ISSUE PASSES AND FURLOUGHS.

### 1. General Considerations

The Comprehensive Drug Reform Act requires that any person who is convicted of a second-degree crime or third-degree school zone offense and who is sentenced to rehabilitative treatment under N.J.S.A. 2C:35-14 must be committed to a residential treatment facility for a minimum of six months. This statutory feature is designed to ensure public safety by making certain that the movements and activities of these defendants are carefully monitored and controlled during the initial period of the five-year fixed term of special probation — a period during which these defendants are most likely to relapse or reoffend. The Legislature thus recognized the need to impose physical restraints to keep these drug-dependent offenders from gaining access to a controlled substance, since urinalysis drug testing cannot prevent drug use, but only reveals drug use after-the-fact. This important statutory feature also helps to ensure public confidence in the integrity of the rehabilitation in lieu of imprisonment sentencing option, and to repudiate the perception that offenders who have been convicted of serious crimes — crimes that otherwise would result in a presumptive or even mandatory term of imprisonment and parole ineligibility — have been allowed to avoid appropriate punishment.

Defendants committed to a residential treatment program pursuant to N.J.S.A. 2C:35-14 are, throughout the term of their residential stay, subject to prosecution for the crime of "escape" if they leave the facility to which they have been committed without proper authorization. This feature further underscores the Legislature's intention that the period of residential commitment is a form of custody similar in many ways to incarceration, designed to reduce if not eliminate the defendant's capacity to commit new crimes.

The working group recognizes the need to make available appropriate transitional services to defendants committed to a residential treatment facility so as to promote their eventual reintegration into the community, preparing them to meet the challenges that they will face following the residential component of their five-year term of special probation under N.J.S.A. 2C:35-14. It is thus beneficial in appropriate cases to permit these defendants, for example, to attend employment interviews and to meet and interact with family members and others who will be

expected to provide support to these defendants upon their eventual return to the community following the inpatient phase of their probation.

## 2. Definitions

For the purposes of this Memorandum, the term "pass" means written permission granted by the treatment provider to a defendant to leave the grounds of the treatment facility to which the defendant has been committed by the court for the purpose of travelling directly to a specified location(s) and/or to attend a specific event(s), and to return directly to the treatment facility upon completing the specified legitimate business that justifies the issuance of the pass. No pass shall extend beyond twelve (12) hours.

The term "furlough" means written permission granted by the treatment provider to a defendant to leave the grounds of the treatment facility to which the defendant has been committed by the court for specified purposes and to conduct specified legitimate business (e.g., to participate in employment interviews, to visit relatives, to establish a support network in anticipation of the person's return to the community, etc.) where the defendant will be permitted to be billeted (e.g., to sleep at a specified location) other than the treatment facility. No furlough shall extend beyond twenty-four (24) hours.

## 3. Initial 120-Day Commitment; Leaving Facility for Limited Purposes While Escorted by a Paid Staff Member

During the first 120 days of residential treatment, no pass or furlough may be issued by the treatment provider, except that the defendant may leave the grounds of the residential treatment facility to attend a court proceeding, to meet with probation personnel, to attend a counselling session, or to receive medical services, provided that the defendant is at all times accompanied by paid staff and further provided that the defendant travels directly to the courthouse, location where the counselling session will be conducted, or place where the medical service will be rendered, and will immediately return to the residential treatment facility upon completion of his or her legitimate business.

## 4. Supervised Group Activities

It shall not be necessary for the treatment provider to issue a pass to defendants who are participating in a supervised group activity that is conducted off the grounds of the treatment facility, provided that the activity is at all times supervised by an adequate number of paid staff members, and further provided that any significant failure or violation occurring during the group activity is reported in accordance with the provisions of § A of this Memorandum.

5. Criteria for Issuing Passes and Furloughs

A treatment provider may issue a pass after the defendant has spent 120 days in residential treatment, or may issue a furlough after the defendant has spent 150 days in residential treatment, provided that all of the following conditions are satisfied:

1. The sentencing court has expressly authorized the treatment provider to issues passes and/or furloughs to this particular defendant. (Note that the court need not approve a specific pass or furlough, but rather may delegate authority to the treatment provider to issue a pass or furlough in accordance with the provisions of this Memorandum. However, notwithstanding any other provision of this Memorandum, the court shall retain the authority to require the treatment provider to seek prior judicial permission before issuing a pass or furlough to any particular defendant.)
2. The defendant during the course of treatment has had no significant failure or violation within the meaning of § A of this Memorandum. In the event that the defendant has had any such significant failure or violation, notwithstanding any other provision of this Memorandum, the treatment provider shall not grant a pass or furlough without the express prior permission of the court for each specific pass or furlough episode.
3. The treatment provider documents the specific reasons justifying the issuance of the pass or furlough. This documentation shall be kept on file and shall be reported to the court and/or to the probation department when reporting on the defendant's progress in treatment.
4. The treatment provider describes the specified, legitimate business or activities that justify issuance of the pass or furlough.
5. Except as may otherwise be expressly provided in this Memorandum, the defendant is at all times accompanied by a paid staff member specifically designated by the provider.
6. The treatment provider issues to the defendant a written pass or furlough that clearly explains the terms and conditions of the pass or furlough, which terms and conditions shall include but not be limited to:
  - a specific description of the place(s) that the defendant may travel to and, where applicable, the event(s) that the defendant must attend;

- a specific description of the legitimate business or activities that justify the issuance of the pass or furlough (i.e., the reason(s) for issuing the pass or furlough);
- in the case of a furlough, the specific place where the defendant will be billeted and a curfew at or before which the defendant must be at such specific place;
- the time that the pass or furlough expires and before which the defendant must return to the treatment facility; and,
- the identity of the specific paid staff member who will be responsible for accompanying the defendant and for monitoring and supervising the defendant's activities and movements at all times during which the defendant is outside the grounds of the treatment facility.

7. The treatment provider retains an exact copy of the written pass or furlough provided to the defendant.

8. The defendant is advised in writing that any willful breach of any term or condition of the pass or furlough constitutes a significant failure or violation within the meaning of § A of this Memorandum that must be reported to the court, the probation department, and/or to appropriate law enforcement authorities and may constitute an "escape" within the meaning of N.J.S.A. 2C:35-14 and 2C:29-5. The defendant shall also be advised in writing that if the purpose of the pass or furlough is to authorize the defendant to attend a specific event (e.g., a counselling session, job interview, etc.); the willful failure to attend that event will constitute a significant failure or violation within the meaning of § A of this Memorandum.

9. The defendant undergoes a urinalysis drug test within three (3) hours of returning from the pass or furlough.

#### 6. Supervision During Period of Hospitalization

Notwithstanding the provisions of § B 5e or any other provision of this Memorandum, where a defendant receives medical treatment that requires inpatient hospitalization, it shall not be necessary for the treatment provider to assign a staff member to accompany or supervise the defendant throughout the period of inpatient hospitalization, provided that the hospital is advised and agrees not to discharge or release the defendant other than to the custody of a paid staff member, and the hospital is further advised and agrees to report to the treatment provider and/or the appropriate law enforcement agency any conduct constituting an escape within the meaning of this Memorandum (i.e., e.g., leaving the hospital without being properly discharged to the custody and supervision of the treatment provider).

7. Duty of Staff to Supervise and Report Violations

A paid staff member assigned by the treatment provider to accompany a defendant or to supervise an off-campus group activity shall be responsible for monitoring and supervising the defendant's activities at all times that the defendant is off the grounds of the treatment facility, and shall be responsible for reporting any significant failure or violation, including but not limited to any violation of the terms or conditions of the written pass or furlough, in accordance with the provisions of § A of this Memorandum.

8. Unescorted Passes and Work Release After Six-Month Minimum Residential Stay

A defendant committed to a residential treatment facility pursuant to N.I.S.A. 2C:35-14 shall not be permitted to leave the grounds of the facility unless accompanied by and under the direct supervision of a paid staff member, except that the court may expressly authorize the treatment provider to issue a pass or furlough that would allow the defendant to leave the grounds of the residential treatment facility without having to be accompanied by a paid or unpaid staff member if the defendant has successfully completed not less than 180 days of residential treatment. In addition, if the defendant has successfully completed not less than 180 days of residential treatment, the court may authorize the treatment provider to issue a recurring, unescorted pass to allow the defendant to undertake gainful employment at a specified jobsite(s) on a regular basis (i.e., a work release). In that event, notwithstanding the provisions of ¶ 4(i), supra, the defendant need not be drug tested every day, but rather shall undergo urinalysis drug testing not less than two (2) times per week.

# **APPENDIX E**

**DRUG COURT APPLICATION FORM**

**CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION FORMS**

**PARTICIPATION AGREEMENT**

**APPLICATION TO TRANSFER RESIDENCY**

**SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION**

APPLICATION TO THE DRUG COURT PROGRAM

\_\_\_\_\_ Vicinage

\_\_\_\_\_ Date of Application

NAME: \_\_\_\_\_ ALIAS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

HOW LONG AT THIS ADDRESS: \_\_\_\_\_ CITIZENSHIP STATUS: \_\_\_\_\_

CO-HABITANT: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

PREVIOUS ADDRESS: \_\_\_\_\_

NEXT OF KIN: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

DEFENSE ATTORNEY: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

CURRENT CHARGES: \_\_\_\_\_ INDICTMENT # \_\_\_\_\_

\_\_\_\_\_ P/G # \_\_\_\_\_

NEXT COURT EVENT: \_\_\_\_\_ DATE: \_\_\_\_\_ JUDGE: \_\_\_\_\_

DATE OF ARREST: \_\_\_\_\_ LOCATION OF ARREST: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

EMPLOYER'S ADDRESS: \_\_\_\_\_

RACE: \_\_\_\_\_ SEX: \_\_\_\_\_ DOB: \_\_\_\_\_ SOCIAL SECURITY # \_\_\_\_\_

SBI # \_\_\_\_\_ FBI # \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_

DRIVER'S LICENSE # \_\_\_\_\_ EYE COLOR \_\_\_\_\_ HAIR COLOR \_\_\_\_\_

DISTINGUISHING MARKS: \_\_\_\_\_

PRESENTLY INCARCERATED? No \_\_\_\_\_ Yes \_\_\_\_\_ Jail # \_\_\_\_\_

DETAINEES? No \_\_\_\_\_ Yes \_\_\_\_\_ JURISDICTION(S): \_\_\_\_\_

ON PROBATION? No \_\_\_\_\_ Yes \_\_\_\_\_ PAROLE? No \_\_\_\_\_ Yes \_\_\_\_\_ PO's Name: \_\_\_\_\_

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Signature of Defense Attorney

**SUPERIOR COURT OF NEW JERSEY**

**VICINAGE DRUG COURT PROGRAM**

**RECORD RELEASE AUTHORIZATION**

I, \_\_\_\_\_ hereby give  
(NAME OF CLIENT)

permission to \_\_\_\_\_  
(Name of agency to make the disclosure)

to release from my files the following information: Participation, attendance and progress in treatment, results of urinalysis, diagnostic test results, pertinent medical and/or psychological information, including medication prescribed.

THIS INFORMATION MAY BE EXCHANGED VERBALLY, ELECTRONICALLY, AND/OR WRITTEN

This information is to be released to: \_\_\_\_\_ VICINAGE DRUG COURT TEAM.

**The purpose or need for such disclosure is: Coordination of substance abuse treatment, medical services, social services and to report if the client is in compliance with the Drug Court mandate.**

This information may be given as required in the course of my medical and substance abuse treatment.

*This consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and will otherwise expire when a final determination has been made or until revocation of my conditional release under which I was mandated to receive treatment.*

**This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulation (42CFR-Part 2) prohibits you from making any further disclosure of it without the specific written consent of the person whom it pertains, or as otherwise permitted by such regulations. A General Authorization for the release of medical or other information is not sufficient for this purpose.**

Signature of Client or Person Authorized by Law to Give Consent	Date
Signature of Witness	Date

**SUPERIOR COURT OF NEW JERSEY**

**VICINAGE DRUG COURT PROGRAM**

**RECORD RELEASE AUTHORIZATION**

I, \_\_\_\_\_ hereby give  
(NAME OF CLIENT)

permission to: \_\_\_\_\_ VICINAGE DRUG COURT TEAM to release from files the following information: results of the substance abuse (TASC) evaluation, requirements of the Drug Court mandate, pertinent medical and/or psychological information, urine test results, and other diagnostic test results.

THIS INFORMATION MAY BE EXCHANGED VERBALLY, ELECTRONICALLY, AND/OR WRITTEN

This information is to be released to:

\_\_\_\_\_  
(Name or Title of Organization to which the disclosure is to be made)

**The purpose or need for such disclosure is: to comply with conditions of the Drug Court mandate.**

This information may be given as required in the course of my medical and substance abuse treatment.

*This consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and will otherwise expire when a final determination has been made or until revocation of my conditional release under which I was mandated to receive treatment.*

**This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulation (42CFR-Part 2) prohibits you from making any further disclosure of it without the specific written consent of the person whom it pertains, or as otherwise permitted by such regulations. A General Authorization for the release of medical or other information is not sufficient for this purpose.**

Signature of Client or Person Authorized by Law to Give Consent	Date
Signature of Witness	Date

# STATE OF NEW JERSEY DRUG COURT PROGRAM

## PARTICIPATION AGREEMENT

STATE OF NEW JERSEY

VS.

VICINAGE \_\_\_\_\_

PROMIS/GAVEL \_\_\_\_\_

Date of Birth \_\_\_\_\_

SBI # \_\_\_\_\_

I understand that I have been accepted to participate in the State of New Jersey Drug Court Program. As a condition of participation, I will be required to enter a guilty plea and a sentence will be imposed. I will be under the supervision of the Drug Court Judge and the Probation Division. I will be required to enter into and successfully complete drug treatment as directed. I further understand that if I am terminated from the program, I may be sentenced in accordance with the plea agreement or, if there is no plea agreement, in accordance with the allowable sentence authorized by law. I understand that I must consent to the following:

1. I agree to cooperate in all evaluations and assessments required by the court to determine appropriate substance abuse treatment and/or rehabilitative needs. I understand that compliance with treatment recommendations is mandatory.
2. I agree to cooperate with the Drug Court Program, probation staff and the treatment providers. I will keep all scheduled court appearances and appointments.
3. I agree to sign all waivers necessary to release information to monitor my progress in the Drug Court and to evaluate the treatment aims of this program. I further agree to sign releases which will allow the Drug Court team to review diagnostic and treatment information.
4. I agree that I will not use or possess any alcohol or illegal drugs at any time. I agree to submit to random urine testing. I understand that the results obtained will be used to assist the courts and treatment providers in evaluating my progress. Test results may be used by the Drug Court team to see if I am progressing satisfactorily, if my treatment plan needs modification, if intermediate sanctions should be imposed or if I should be terminated or graduate from the Drug Court Program.
5. I agree to participate in the Drug Court Program until successfully discharged from all phases of the program including in-patient and out-patient treatment.
6. I agree to participate in any educational treatment, or rehabilitation program ordered by the Drug Court.

7. I agree to abide by the rules and regulations of probation supervision and any special conditions ordered by the court. I understand that I will be under probationary supervision for term not to exceed five (5) years.
8. I agree to inform the Drug Court, probation officer and treatment provider of any new arrests.
9. I agree that I may be subject, at any time, to a search conducted by a probation officer, without a warrant, of my person, place of residence, vehicle or other personal property.
10. I agree that my participation in the Drug Court Program may be terminated if I fail to make satisfactory progress toward completion of the program.
11. I agree that my participation in the Drug Court Program may be terminated if I am rearrested, test positive for drugs or alcohol or fail to meet any of my court ordered obligations. I further understand that the Court can impose sanctions, including county jail time, rather than terminate my participation in the program. I understand that sanctions may be increased and may include termination from the program.
12. I understand that I have a right to an attorney during court proceedings, which shall include plea, sentence, and any violation which could lead to termination of participation in the Drug Court Program. If I am unable to afford an attorney, I may be eligible for Public Defender representation. I further understand that if I have any questions concerning Drug Court I should discuss them with my attorney.
13. OTHER: \_\_\_\_\_

I am represented by counsel and have been advised of the consequences of non-compliance as well as the potential rewards for successful participation in the State of New Jersey Drug Court Program. I have either read these conditions, reviewed them with my attorney, or had them read to me. I understand and consent to the terms of this contract. Having been so advised I knowingly and voluntarily agree to participate in the State of New Jersey Drug Court Program.

\_\_\_\_\_  
**PARTICIPANT**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DEFENSE COUNSEL**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DRUG COURT JUDGE**

\_\_\_\_\_  
**DATE**

**NEW JERSEY DRUG COURT PROGRAM**

\_\_\_\_\_ Vicinage

**APPLICATION TO TRANSFER RESIDENCY**

NAME: \_\_\_\_\_ PROBATION OFFICER \_\_\_\_\_

CURRENT ADDRESS: \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

CITY: \_\_\_\_\_ HOW LONG AT THIS ADDRESS: \_\_\_\_\_

COHABITANTS: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

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REQUESTED TRANSFER COUNTY: \_\_\_\_\_ STATE: \_\_\_\_\_

REQUESTED ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

COHABITANTS: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

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DEFENSE ATTORNEY: \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

DATE SENTENCED TO DRUG COURT: \_\_\_\_\_ 2C:35-14 Sentence? Yes \_\_\_\_\_ No \_\_\_\_\_

WHAT PHASE OF DRUG COURT ARE YOU PRESENTLY IN? \_\_\_\_\_

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Why do you feel that you have earned the privilege of transferring to another jurisdiction? \_\_\_\_\_

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Do you think your recovery is strong enough for you to transfer? If so, explain why \_\_\_\_\_

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How do you think this transfer will benefit your recovery? \_\_\_\_\_

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**Date of Application:** \_\_\_\_\_

# **APPENDIX F**

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## **FORM FOR REPORTING PROBLEMS TO THE DIVISION OF ADDICTION SERVICES**

**REPORTING COMPLAINTS REGARDING PROVIDERS  
TO THE DIVISION OF ADDICTION SERVICES**

The Division of Addiction Services (DAS) is responsible for licensing of providers. To carry out that function the DAS conducts site visits to providers' facilities and investigates complaints regarding services or programs run by providers. Very often a complaint may be registered by a client with a drug court regarding a provider. Most have been minor in nature and, in most instances, drug courts have resolved these complaints by dealing directly with the provider without involving the DAS. Some drug courts have called the DAS to talk about the problem before contacting the provider. To the extent a problem is serious, e.g. client abuse or neglect, or appears to be re-occurring, drug courts should report this to the DAS. To facilitate uniform reporting, the DAS has developed a form for reporting problems with providers. That form is attached. Submission of this form will start a formal review\investigation by DAS.

If a drug court needs to register a complaint with the DAS, the form should be sent to the DAS at the following address or fax number:

Dennis Donovan  
Department of Health and Senior Services  
Division of Addiction Services; P.O. Box 362  
Trenton, New Jersey  
Fax Number (609) 292-3816 or 292-1045

Dennis Donovan can be reached by telephone at (609) 633-8693

\_\_\_\_\_ COUNTY

### Drug Court Treatment Complaint Notification Form

TO: Division of Addiction Services  
Criminal Justice Unit  
Fax # (609) 292-3816 or 292-1045

DATE: \_\_\_\_\_

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Service Involved: Check One

- Inpatient Provider
- Outpatient or Aftercare Provider

Name of Provider: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name of Client: \_\_\_\_\_

Date(s) of Incident(s): \_\_\_\_\_

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Specific Nature of Complaint: Provide as much detail as possible including provider staff involved and details of any conversation with provider staff.

Additional information attached

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Name of Person Submitting Complaint

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Title

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Telephone Number

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Fax Number