

**Twenty Second Judicial Circuit
McHenry County**



**DUI COURT
PARTICIPANT
MANUAL**

**Mc Henry County Specialty Court
22nd Judicial Circuit
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Mission Statement

To make the community safer by providing a collaborative intervention program designed to provide restorative care, treatment, and legal accountability to DUI offenders in McHenry County.

Program Goals

It is the goal of the Driving Under the Influence Court Program to reduce, deter and attempt to eliminate repeat DUI offenses. The program will provide quick screening, assessment, and intervention. This program will be targeting treatment interventions, probation supervision, and judicial oversight rather than the approach of the traditional punitive system.

Our objective is to have you successfully complete this Program with the following characteristics:

- Substance free and actively working a lifestyle of abstinence and sobriety
- Reduced incarceration in jail or prison
- Employed
- Living in stable housing
- Able to manage your financial responsibilities
- Fines, fees, and restitution paid, or to be paid pursuant to a reasonable repayment plan

Program Outline

The DUI Court Program is for clients who have issues that stem from the abuse and/or dependence of alcohol and/or other drugs. Entering this voluntary program, you need to be motivated to work toward developing a lifestyle free of alcohol and/or other drug addiction. The program is accessible regardless of your gender, race, nationality, ethnicity, limited English proficiency, disability, socio-economic status, or sexual orientation.

The information in this manual is intended as a guideline for DUI Court. This information is subject to change and may be modified by the DUI Court Team. The participant and their attorney will be notified of any changes to the program and Participant Manual.

Introduction

What is DUI Court?

DUI Court is a specialized court providing substance abuse treatment and case management for non-violent repeat DUI offenders. DUI Court integrates substance abuse treatment with the justice system. A team approach is used to supervise your treatment progress and overall program performance in the program.

This is a voluntary program, which includes regular appearances before the DUI Court Judge, frequent and random drug/alcohol testing, substance counseling, a system of behavior modification based on incentives, sanctions therapeutic adjustments, and community supervision by the DUI Court Team. The Team is non-adversarial. It will take at least eighteen months to complete the DUI Problem Solving Court (PSC) program. Actual time will depend on each participant's effort and commitment. Participants are expected to complete the program within 18 months from the date of enrollment. Participation longer than 18 months from the date of enrollment will require the case be addressed with the DUI Court team.

Court Model

Post Plea/Pre - Sentence Program

Target Population

The McHenry County DUI Court Program's target population is for clients that rate Moderate to High Risk/High Need offenders on an official Court assessment, who reside in McHenry County, Illinois, who have a current nonviolent felony DUI offense and a primary diagnosis of substance dependence.

This program is a diversion program for clients charged with a felony DUI based upon prior DUI offenses. By law, the exclusive authority to amend a criminal charge rest with the State's Attorney.

ACCESS TO JUSTICE

In order to be certified, each Problem-Solving Court (PSC) must ensure that its policies and procedures are in accordance and consistent with all applicable rules and policies of the Illinois Supreme Court, as well as all applicable Local Rules, Administrative Orders, General Orders and Policies of the Circuit Court where the PSC is located, which set forth requirements for access to justice. The applicable Illinois Supreme Court policies include, but are not limited to, the Illinois Supreme Court Language Access Policy, the Illinois Supreme Court Code of Interpreter Ethics, and the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians and Court Volunteers. Applicable Circuit Court policies include policies on access for persons with Disabilities consistent with Title II of the Americans with Disabilities Act. Participants will have access to the program regardless of race, gender, culture, sexual orientation, or socioeconomic status.

Team Members (Roles)

Judge-The Judge is responsible for reviewing all Specialty Court participant cases on a weekly basis through court reports provided by the team; imposing sanctions; establishing the level of supervision within each phase with team input; and presides over court sessions. The Judge is the deciding factor for participants to be accepted or denied into the program. The problem-solving court judge is responsible for the administration of sanctions, incentives, and therapeutic adjustments. The Judge will make a 2-year commitment to work within the Specialty Court program. He/she will not only assume the role of judge, but also as mentor and encourager to each Specialty Court participant. The assigned PSC judge will have experience and/or training in the areas of (1) criminal law; (2) behavioral health; (3) confidentiality; (4) ethics; (5) evidence-based practices; (6) substance use and abuse; (7) mental illness; and (8) co-occurring disorders.

State's Attorney-The State's Attorney is responsible for advising the Specialty Court team of relevant information regarding the participant, i.e., new police contact, violation of bond and or probation, on current and past criminal charges. The State's Attorney's role is non adversarial. The States Attorney attends and participates in relevant trainings and participates in all DUI Court Staffings and hearings by providing input on possible sanctions, incentives, and therapeutic adjustments. The State's Attorney will make a 1-year commitment to work within the Specialty Court program.

Public Defender/Private Attorney-The attorney acts as an advocate for the participants legal interests; and makes referrals for consideration as a Specialty Court participant. The Public Defender's role is non adversarial. The Defense Attorney attends and participates in relevant trainings and participates in all DUI Court Staffings and hearings by providing input on possible sanctions, incentives, and therapeutic adjustments. The Public Defender will make a 1-year commitment to work within the Specialty Court program.

Coordinator- Oversees the various functions of the Specialty Court Program and reports to the Assistant Trial Court Administrator and the Trial Court Administrator of the 22nd Judicial Circuit. The Coordinator is the central contact for any questions and is responsible for tracking all cases as well as statistical tracking. The role of the Coordinator is a non-adversarial role. The Coordinator attends and participates in relevant trainings and participates in all DUI Court Staffings and hearings by providing input on possible sanctions, incentives, and therapeutic adjustments. The Coordinator will make a 1-year commitment to work within the Specialty Court program.

DUI Court Counselor: The DUI Court Counselor will conduct initial evaluations and compile summaries on each case. He/she will attend and present information at all staffing and court dates and maintain constant contact with community treatment providers. He/she will also act as the lead case manager making all treatment linkages and maintaining client files in the McHenry County Special Courts Information System. The role of the DUI Court Counselor is a non-adversarial role. The DUI Court Counselor attends and participates in relevant trainings and provides input on possible sanctions, incentives, and therapeutic adjustments. The DUI

Court Counselor will make a 1-year commitment to work within the Specialty Court program.

Probation Officer (P.O.)-The Court Services Representative is responsible for completing assessments, providing community supervision, intervene with Evidence Based Practices (EBP), and monitoring compliance with court orders. The role of the Probation Officer is a non-adversarial role. The Probation Officer attends and participates in relevant trainings and participates in all DUI Court Staffings and hearings by providing input on possible sanctions, incentives, and therapeutic adjustments. The Probation Officer will make a 1-year commitment to work within the Specialty Court program.

Peer Recovery Specialist (PRS)- The PRS shall guide and mentor participants to successfully complete program requirements and help facilitate participants' independence and success once the supports of the Specialty Court team are no longer available. The PRS shall be certified by the Illinois Certification Board and make a minimum 1-year commitment to the Specialty Court Program.

Defendant-Yes, the defendant is part of the team! The defendant/participant will have an active role in developing an individualized service plan and deciding where he/she will receive appropriate treatment services. He/she will also follow all DUI Court Rules and is expected to attend and participate in court hearings as directed.

Eligibility Standards

Factors considered by the DUI Court Team for admission to the Program include the following:

1. Your willingness to participate in the DUI PSC.
2. You are charged with a felony DUI based upon prior offenses.
3. You are evaluated moderate to high risk/high need based on a valid Risk Assessment.
4. Your offense did not result in injuries to another, or death.
5. You are a McHenry County resident.
6. You meet diagnostic criteria for substance abuse or dependency.
7. You have not committed a disqualifying offense as set forth in 730 ILCS 166/20 (b) and (c) within the past 5 years.
8. You are 18 years of age or older.

Referral, Assessment and Enrollment

Individuals meeting eligibility requirements may be referred to the DUI Court within 60 days of their first appearance with counsel, *unless excused by the Judge upon a showing of good cause*. The case may be referred to the DUI Court by any interested party.

As part of the referral process, the participant will submit to a risk/needs assessment to be completed by the probation staff and a clinical assessment to be completed by the DUI Court clinician. The participant will be required to sign all appropriate medical and treatment releases.

The participant's case will be reviewed and a decision on acceptance into the program will be made

by the DUI Court Judge.

After the DUI Court Judge, with input from the team, determines that a participant is eligible for acceptance into the program, the parties agree that DUI Court is appropriate, and the Felony Court Judge concurs, at the next court date:

1. The participant will sign the DUI Court Agreement and acknowledge his/her signature in open court.
2. The participant will plead guilty to the felony DUI(s) as provided by the State's Attorney's Office.
3. A sentencing date will be set out 18 months.
4. If free on bond, the participant will remain so and subject to those bond conditions as well as the conditions set forth in this manual and any other conditions imposed by the DUI Court Judge.
5. If in custody, the participant will receive a recognizance bond and be subject to those bond conditions in addition to the conditions set forth in this manual and any other conditions imposed by the DUI Court Judge.

The participant's case will thereafter be transferred to DUI Court.

DUI Court Proceedings

Once accepted into the DUI Court, you will be expected to appear in court on a weekly basis unless otherwise directed by the court. You may be required to submit to breathalyzers or tests for other drugs. The DUI Court Judge will discuss with you your progress in the Program. Incentives, Sanctions, and Therapeutic adjustments will be imposed when appropriate.

You are always expected to maintain appropriate behavior and attire during court sessions and while in the courthouse. The Judge and team members shall be addressed with respect. You are expected to remain for the entire court proceeding. Cell phones should be turned off and put away during court proceedings.

Participant's Rights

You understand you are voluntarily agreeing to participate in the DUI Court Program, and you can voluntarily withdraw at any time. You also understand that admission, participation, and possible termination from the program are all entirely within the discretion of the DUI Court team, with the Judge as the final decision maker.

DRUG and ALCOHOL TESTING

Philosophy: Drug and alcohol testing is an integral part of your abstinence and sobriety and an integral part of the DUI Court Program. The Program utilizes multiple levels of alcohol and drug testing measures, including but not limited to electronic continuous monitoring devices, urinalysis, breathalyzers, OSM, etc. Tests are not meant to be punitive and are used:

- a. as a continuous assessment and diagnostic tool
- b. to reinforce and validate recovery and abstinence

- c. as an intervention tool
- d. as a deterrent to drug and alcohol use

Upon program acceptance, each participant will be given information about how to call in daily (7 days per week). It will be the participant's responsibility to call in each morning between 6am and 10:00 am to find out if he/she must report for testing between 8am and 4pm (M-F). Weekend & Holiday testing times may fluctuate, but the times will be identified when participants call in on weekends/holidays. Participants should call in every day, including weekends and holidays between 6am and 10am.

Testing dates are **randomly** assigned to each participant. When prompted to report for a test, participants can arrive for testing at any time within the times listed above. A **minimum** of two screens per week will be maintained throughout the DUI Court program.

If a participant has a positive test, the Judge, based on recommendations from the DUI Court Team, may administer a therapeutic adjustment and/or immediate sanction – up to and including a period of incarceration – to help the participant stop the using behavior.

Missed drug screens will be considered positive for the presence of alcohol/drugs in your system.

If the participant wishes to contest a positive drug/alcohol screen the sample will be sent to the laboratory for confirmation testing; and participant shall pay the cost of the additional testing if the lab confirms the screen to be positive for the presence of alcohol/drugs. Probation may send any positive sample to the lab for confirmation. If the sample is confirmed positive, it may be used by the DUI Court Team to determine an appropriate therapeutic adjustment or sanction.

Adulteration of drug or alcohol testing samples will result in a sanction, may result in additional charges, and may subject participants to discharge proceedings from DUI Court.

If you are using any prescriptions, over the counter medications, or supplements, **you must disclose that information to a member of the DUI Court team immediately upon obtaining the prescription AND before you are tested.** You understand some medicine may contain alcohol or other chemicals that conflict with your treatment goals. Clients are required to let their health care provider know that they are in the DUI Court Program.

Drug and Alcohol Screening Policy

It is the policy of the McHenry County Specialty Court that participants are randomly tested for drugs/alcohol. Drug/alcohol testing can be performed by multiple individuals and treatment agencies including the agency providing treatment, the Department of Court Services and Probation or any vendor contracted for such services by the Court/Department of Court Services and Probation. Drug/alcohol testing can be

- **Sample Collection Procedures** – The Specialty Court will employ several techniques to minimize tampering while collecting a specimen. When a participant is about to submit a sample for analysis, he/she must empty all pockets and show the tester all possible areas of hiding, including beneath clothing. The participant must leave all bags in the custody of the tester before entering the bathroom. Whenever possible, a same-

gender tester will supervise the collection of specimens from inside the bathroom. Otherwise, the tester should also make sure the bathroom appears free of possible contaminants and tampering devices.

- **Notice of Random Collection** – Random analysis is required of all participants. Random collection shall and will be conducted at various times and dates, this includes around the clock, by way of staff visits to participant residences or a client visit to the Specialty Court, or other designated location. Collection will always be done in a discrete manner consistent with the Confidentiality Policy (see VIII. Confidentiality Policy).
- **Screening Test results** – drug testing results will be documented and provided to the Specialty Court team members. Any positive drug or alcohol screens, tampered samples, or refusal to provide a sample can be grounds for sanctions, therapeutic adjustments, or both.

CONFIDENTIALITY

A Waiver of Confidentiality (authorization for release of information – “release”) and consent for participation is required for participation in the DUI Court program. **A Participant can revoke the Waiver of Confidentiality once it is given; if a Participant revokes his/her Waiver of Confidentiality, he/she may be discharged from the program.**

When the Participant completes the DUI Court program, or is otherwise discharged, the Waiver of Confidentiality shall terminate.

- The DUI Court team adheres to HIPAA Privacy and Security Policies and Procedure.
- All parties involved in the DUI Court agreement will abide by applicable confidentiality regulations, including, but not limited to, Federal Regulations governing the confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2, 45 CFR Parts 160 and 164, and any applicable Illinois State Laws which relate to the confidentiality of mental health, alcohol, and drug abuse client records.

When a person is referred to a PSC and found to be ineligible to enroll in a PSC by the PSC team or a PSC participant is discharged from the PSC, the PSC prosecutor shall delete or destroy the PSC participant’s confidential information that was disseminated in conjunction with the person’s referral to or participation in the PSC.

Limits of Confidentiality

Information from case files may be shared with individuals or organizations as specified under the following conditions:

- Information may be gathered about program participants and shared with the DUI Court team only upon receipt of signed “release” forms.

- Identifying information of program participants may be used in data collection, agency publications or promotional materials only upon written consent.
- DUI Court team members are mandatory reporters and must disclose information indicating that a participant may be dangerous or intends to harm him/herself or others.

INCENTIVES, THERAPEUTIC ADJUSTMENTS, AND SANCTIONS

Throughout DUI Court, Incentives and Sanctions are given out for certain behaviors. For those Participants who fail to comply with the DUI Court program requirements, Sanctions (punishments) may be imposed. Sanctions may begin with minor demands of the Participant – i.e., an essay or increased court appearances – and move toward more severe punishments, such as public service work or jail time. Sanctions are determined on an individual basis and shall be administered by the Judge.

Incentives

As you progress through DUI Court and begin to make positive choices, you will receive incentives from the DUI Court Team. Incentives may be received for a variety of behaviors and achievements such as DUI Court attendance, treatment attendance with progress, negative drug or alcohol screens, medication compliance, and gaining/maintaining employment. The DUI Court team may choose from incentives such as:

- Positive Praise
- Less frequent DUI Court meetings/Court Appearances
- Less frequent visits to Court Services
- Phase Changes – Leave Status Hearings early
- Permission to Travel out of state when requested
- Less restrictive curfew
- Gift certificates

Sanctions Just as positive behaviors are rewarded, negative behaviors will also be addressed. Poor attendance, lack of participation in treatment or tasks identified in the treatment plan, and positive drug or alcohol screens are some of the behaviors which could result in a sanction. Sanctions include, but are not limited to, the following:

- Verbal reprimand
- Essay assignment
- Court observation
- Increased drug and alcohol testing
- Increased court appearances
- Coroner’s Office Tour
- Curfew/Electronic Monitoring/Restriction
- Increased team contact
- Activity log assignment
- Community Service hours
- Delay in promotion
- Incarceration/Bond revocation
- Discharge from the Program

Therapeutic Adjustments- Just as positive and negative behaviors are monitored from time to time there may be a need for a Therapeutic Adjustment. These can be related to an unforeseen stress related event, not the correct type of treatment group, additional need of treatment or different treatment setting. The DUI Court Team may make a “therapeutic adjustment” to your treatment plan when additional treatment opportunities are required. Below are a few examples of Therapeutic Adjustments:

- Increased intensity of treatment
- Additional treatment groups
- Additional counseling referrals
- Verification of community support meeting attendance
- Increased drug and alcohol screens
- Medication assisted therapy
- Use of additional supervision devices (SCRAM, CheckBAC, etc.)

The Treatment Court provides (or partners with service providers who provide) participants with legally prescribed psychotropic or addiction medication (MAT). McHenry County Treatment Courts have a nurse on the team to provide assessments, prescriptions, and other MAT-related services. Medication-assisted treatment (MAT) is an evidence-based practice. Treatment court program incorporates this practice for those participants who have an assessed need.

22nd JUDICIAL CIRCUIT – ADULT DUI COURT PROGRAM REQUIREMENTS/PHASES

There are five (5) Phases to the Program. Upon admission into the Program, an individualized case management plan will be developed. The plan will take into consideration your risk assessments and clinical assessments. Promotion in phase is decided by the DUI Court team Judge after consultation with the team. Promotion is not based as much on the amount of time you have been in the program but on your effort and completion of stated goals.

Phase 1: Acute Stabilization

Approximately 60 days

Treatment

- Comply with treatment at the recommended level of care (residential treatment or Intensive Outpatient IOP), and sign treatment plan
- Attend all group and individual treatment sessions
- Be honest with treatment provider and DUI Court team
- Begin to change people, places, and things
- Address transportation needs
- Obtain a medical assessment and sign release for all of your physicians
- Research types of recovery groups (AA, NA, SMART Recovery, Refuge recovery, etc.)

Supervision

- Attend all scheduled Court Appearances (weekly)
- Review and sign Terms & Conditions of Probation with Probation Officer
- Comply with probation requirements
- Comply with random drug and alcohol testing protocol
- If necessary, address housing

In order to advance in Phase:

- Attendance at treatment, office visits and drug and alcohol tests
- Maintain 30 days of consecutive confirmed sobriety
- Honesty with treatment, probation, and the DUI Court team

Phase 2: Clinical Stabilization

Approximately 90 days

Treatment

- Comply with treatment at the recommended level of care (residential, IOP, or OP).
- Attend all group and individual treatment sessions
- Be honest with treatment provider
- Continue to change people, places, and things
- Continue addressing medical needs if necessary
- Address transportation needs
- Begin attending peer support groups (i.e., AA, NA, SMART Recovery, Refuge recovery, etc.)

Supervision

- Attend all scheduled Court Appearances (minimum bi-monthly)
- Comply with all probation requirements
- Comply with random drug and alcohol testing protocol

In order to advance in Phase:

- Regular attendance at treatment, office visits and drug tests
- Honesty with treatment and probation
- Demonstrate insight into substance use and use of new coping skills in daily life
- Minimum 30 consecutive days of confirmed sobriety immediately prior to advancement

Phase 3: Pro-Social Habilitation

Approximately 90 days

Treatment

- Comply with treatment at the recommended level of care
- Attend all group and individual treatment sessions
- Be honest with treatment provider

- Continue addressing medical needs if necessary
- Complete assignments related to criminal thinking if required
- Establish a sober network

Supervision

- Attend all scheduled Court Appearances (minimum once per month)
- Comply with all probation requirements
- Comply with random drug and alcohol testing protocol

In order to advance in Phase:

- Compliance with treatment and probation
- Honesty with treatment, probation, and the DUI Court team
- Demonstrate active involvement with sober support network
- Identify pro-social activity (sober activities) and goals
- Minimum 45 consecutive days of sobriety immediately prior to advancement

Phase 4: Adaptive Habilitation

Approximately 90 days

Treatment

- Comply with treatment at the recommended level of care
- Be honest with treatment provider
- Maintain sober network
- Maintain pro-social activities
- Maintain housing
- Continue addressing medical needs if necessary
- Complete assignments related to criminal thinking if required
- Continued involvement with sober network
- As needed based on assessment: review need for job training
- As needed based on assessment: review need for parenting skills training

Supervision

- Attend all scheduled Court Appearances (minimum once per month)
- Comply with all probation requirements
- Comply with random drug and alcohol testing protocol

In order to advance in Phase:

- Compliance with treatment and probation
- Honesty with treatment, probation, and the DUI Court team
- Maintain sober support network
- Maintain pro-social activity (sober activities)
- Begin/maintain other areas (employment, etc.)
- Minimum 60 consecutive days of confirmed sobriety immediately prior to advancement

Phase 5: Continuing Care

Approximately 90 days

Treatment

- Development of a Treatment Discharge Plan
- Complete Probation Discharge Plan
- Monthly individual sessions
- Maintain housing
- Continue addressing medical needs
- Maintain pro-social activity
- Maintain sober network
- As needed based on assessment: complete job training
- As needed based on assessment: complete parenting skills

Supervision

- Attend all scheduled Court Appearances (minimum once per month)
- Comply with all probation requirements
- Comply with random drug and alcohol testing protocol
- Comply with probation requirements

In order to GRADUATE:

- Compliance -with treatment and probation
- Honesty with treatment, probation, and the DUI Court team
- Maintain sober support network
- Maintain pro-social activity (sober activities)
- Maintain other areas (employment, etc.)
- A minimum of 180 days of sobriety and completion of all requirements of Continuing Care

COMMENCEMENT

When a participant has successfully fulfilled the terms of the DUI Court Program, and files an application for commencement, legal agreements made pending your completion of the program will be reviewed and acted upon accordingly. Defense Counsel will discuss a motion for early termination. A Commencement Application shall be completed and turned into the DUI Court Clinician and Probation Officer.

The application will be reviewed by the entire team at a staffing and commencement status will be determined. Further recommendations can be made before commencement if the DUI Court team feels it is necessary. The following are – at a minimum – necessary to graduate from the DUI Court program:

1. You have completed all phases of the program.
2. You have completed all terms and conditions of probation that were not waived or eliminated.
3. The DUI PSC Team is satisfied that:
 - a. You achieved a continuous pattern of sobriety sufficient to merit graduation.
 - b. You have legal means of support and a plan for long-term self-sufficiency.
 - c. You have safe, sober, and secure housing.
 - d. You have sufficient support in the community to remain sober and stable.
 - e. You have developed a long-term sobriety plan.

PROGRAM OUTCOMES AND TERMINATION

1. **Successful** – Successful discharge decisions shall be made by the Judge with input from the Specialty Court team. Inability to pay fines, fees, costs, and assessments shall not prevent a participant who has otherwise completed the conditions of the program from being successfully discharged from the program

Successful Discharge – the participant completes the goals and conditions of the DUI PSC. This determination is made by the Judge with input from the DUI Court team. Successful discharges will be acknowledged in open court by a graduation and celebration. Upon successful completion:

- a. The Participant's attorney will prepare and file a motion before the Felony Court that received the guilty plea and move to withdraw the Participant's guilty plea and strike any sentencing date. The State's Attorney will not object to the motion.
- b. The Court will grant the motion to withdraw.
- c. The State will file an Information charging the Participant with a probation-eligible DUI, in most cases, a misdemeanor DUI, under 625 ILCS 5/11-501(a)(2) and *nolle prosequi* (i.e., dismiss) the original DUI felony charge(s).
- d. The Participant will plead guilty to the new charge in the information and be sentenced to a period of conditional discharge, during which time the participant will pay all fines and court costs, serve any jail sentence previously agreed to, and not violate any laws – local, state, or federal. The conditional discharge may be terminated upon full payment of fines and court costs and completion of any sentence.

Neutral discharge – may occur where the Participant is not able to continue with program expectations due to external circumstances. Neutral discharges will be acknowledged in open court.

2. **Unsuccessful Termination**– If the Participant does not comply with the behavioral and treatment recommendations for the DUI Court team, their case may be returned to the felony

court in which they entered their plea for sentencing if terminated from the DUI Court program. Reasons for termination could include, but are not limited to, an ongoing failure to follow program rules and expectations, tampering with a urine sample, being on active warrant status for more than 90 days, lack of treatment compliance, and/or committing new offense(s) while in the program. If the State's attorney seeks to terminate a participant from the program, they will serve the participant with a petition to terminate from the PSC. The petition shall set forth the claimed violations of the DUI Court program requirements, together with the relief sought.

If a Participant does not comply with the rules of the program, he or she is subject to discharge from the program. The State must file a motion for discharge and a discharge hearing must be held before a Participant can be discharged. A Participant has the right to appear at his or her discharge hearing, be represented by an attorney, and present a defense. If a Participant chooses to not appear at a discharge hearing or absconds from the program, a hearing may be held in the Participant's absence.

A participant shall be served with a petition to terminate the participant from the specialty court. The petition shall include the alleged violation(s) and the relief sought. The Specialty Court Judge shall ensure all participants who are subject to unsuccessful discharge are advised of and accorded the rights set forth in Supreme Court Rule 402A, including but not limited to, the right to counsel and a hearing.

Violation, Termination, Discharge Policy

It is the policy of the McHenry County Specialty Court Program to follow the violation, termination and discharge guidelines and procedures of the **Drug Court Treatment Act** [730 ILCS 166/35] which are set forth as follows:

Termination; Discharge

- (a) If the court finds from the evidence presented including but not limited to the reports of proffers of proof from the DUI Court professionals that:
- (1) The Participant is not performing satisfactorily in the assigned program.
 - (2) The Participant is not benefitting from education, treatment, or rehabilitation.
 - (3) The Participant has engaged in criminal conduct rendering him or her unsuitable for the program; or
 - (4) The Participant has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate.

In accordance with the Supreme Court Rule 402(A) (b) and (c), the Specialty Court shall not accept an admission to a violation or a stipulation that the evidence is sufficient to establish a violation without first addressing the Participant personally in open court and informing the Participant of the following:

- i. The specific allegations in the petition.
- ii. That the Participant has the right to a hearing with defense counsel present, and the right to appointed counsel if the Participant is indigent.

- iii. That, at the hearing, the Participant has the right to confront and cross-examine adverse witnesses and to present witnesses and evidence on his or her behalf.
- iv. That, at the hearing, the State must prove the alleged violation by a preponderance of the evidence. The hearing is not governed by the Illinois Rules of Evidence. Rather, the Judge shall hear and admit any testimony and evidence he/she deems relevant and competent from the State or Defendant. Both parties may introduce evidence by way of proffer without evidentiary foundational requirements for the admission of any chemical testing, or monitoring, treatment, or additional information pertaining to client's treatment. Any competent testimony or evidence regarding the results of any chemical testing, monitoring, treatment, or additional information is admissible. At the hearing, the Participant has the right to cross-examine witnesses and the right to present evidence and witnesses on his/her behalf.
- v. That by admitting the violation or by stipulation that the evidence is sufficient to establish a program violation, there will not be a hearing on the petition such that the Participant waives the right to a hearing and the right to confront and cross-examine adverse witnesses, and the right to present witnesses and evidence on his or her behalf; and

In accordance with Supreme Court Rules 402(A) (b) and (c), the DUI Specialty Court shall not accept any admission to a violation or any stipulation that the evidence is sufficient to establish a program violation without first determining that the Participant's admission or stipulation is voluntary and that there is a factual basis for the admission or stipulation.

In accordance with Supreme Court Rule 402A (d), a PSC Judge shall not participate in plea discussions with respect to a petition to terminate participant from the PSC program or to revoke probation without first complying with Supreme Court Rules 402(d), (e), and (f).

At a hearing on petition to terminate a participant from a PSC or to revoke probation, a PSC judge cannot consider any information learned through team staffing, status review hearings or otherwise, unless newly received in evidence at the hearing.

A PSC judge should disqualify himself/herself in a proceeding on a petition to terminate a participant from a PSC or to revoke probation under the circumstances listed in Supreme Court Rule 63C.

A participant has the right to move for substitution of the PSC judge pursuant to section 114-5(d) of the Code of Criminal Procedure (725 ILCS 5/114-5(d)) for purposes of hearing on a petition to terminate a participant from a PSC or to revoke probation.

- b. Once a Petition to Terminate a Participant from the DUI Specialty Court has been filed, the Judge may allow the Participant to remain in the Specialty Court with hearing on the petition deferred. The State may thereafter dismiss the petition if the Participant makes satisfactory improvement in compliance with the Specialty Court

program requirements. If the Participant fails to make satisfactory improvement, the State may elect to set the petition for hearing on bond condition violation.

- c. Immediately upon being discharged from the Specialty Court, due to either a violation of program requirements or voluntary withdrawal:
 - i. the Specialty Court shall hear the State's motion to revoke the Participant's bond pursuant to 725 ILCS 5/110-6.2.
 - ii. should the Participant's bond be revoked, he/she shall immediately be taken into custody, and
 - iii. the case shall be set for status before the Judge/Court wherein the Participant entered his/her plea of guilty to the felony DUI charge and, thereafter, advanced for sentencing.
3. **Voluntary Withdrawal** – The Participant withdraws from voluntary participation in the specialty court. A Participant shall have the right to voluntarily withdraw from the Specialty Court. Prior to allowing the Participant to withdraw, the Judge shall:
 - i. ensure the Participant has the right to consult with counsel; and
 - ii. determine in open court that the withdrawal is made voluntarily and knowingly
 - iii. admonish participant in open court as to the consequences, actual or potential, which could result from withdrawal
4. **Graduation-** To graduate from the Specialty Court program a participant must complete all program phases, treatment recommendations and remain in continued compliance with Court Supervision. When a participant successfully completes all the requirements of the program, he or she will graduate at that time. Upon completion of the Specialty Court program, legal agreements made pending completion shall be reviewed and acted upon accordingly.

PROGRAM RULES

- Appear in Court as scheduled or as directed by the DUI Court.
- Attend all appointments with the DUI Court Probation Officer and Clinician.
- (If you are unable to attend a scheduled appointment for any reason, CALL to reschedule)
- Notify your Probation Officer immediately following any law enforcement contact, crisis assessment or hospitalization, change in address, phone number, etc.
- Follow the treatment plan and actively participate in all required treatment components.
 - The treatment plan may include some or all the following components:
 - ✓ Medication
 - ✓ Participation in various mental health treatment services
 - ✓ Intensive case management services
 - ✓ Psychiatric services
 - ✓ Educational programs
 - ✓ Vocational programs
 - ✓ Budgeting Programs
 - *It is important to keep in mind that successful completion of the DUI Court program is dependent upon compliance with the treatment and supervision plan.*

- Do not use synthetic drugs, illegal substances, anything containing THC, or alcohol.
 - DUI Court participants may not serve as volunteers or in any other capacity for any entity that provide alcohol or substance abuse recovery services to non-profits, community providers, or agencies that includes transporting, arranging, organizing, or participating in placing a person into treatment facilities, without achieving Phase 5 and prior authorization of the DUI Court team. Violation of this rule will result in program sanction, multiple violations may include discharge from the DUI Court program.
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- Take prescribed medications and report any changes/additions in prescribed medications to your Treatment Clinician. Contact your Treatment Clinician before using any over-the-counter medications, supplements, or the like.
 - Submit to random drug, alcohol screens, and breathalyzers when requested by the DUI Court or treatment provider.
 - Obey all local ordinances, state laws and federal laws.
 - Obey your curfew.
 - Follow all rules of the McHenry County Court Services Department and DUI Court Sentencing Conditions.
 - Violations may result in sanctions and/or termination from the DUI Court program.
 - Cooperate with all home visits, treatment visits or employment visits. These visits may be unscheduled or unannounced.
 - **If you will miss any form of treatment, you must notify the Clinician and McHenry County Court Services Department.**
 - Do not be in possession of a firearm or weapon of any type.
 - Treat others with respect/demonstrate appropriate behavior.
 - Pay all fees associated with your court case, or made financial arrangements approved by the Court.
 - Maintain McHenry County residency while participating in the DUI Court program.
 - **TRANSPORTATION TO AND FROM ALL OF YOUR APPOINTMENTS AND COURT DATES IS YOUR RESPONSIBILITY.**
 - **AT ALL TIMES YOU MUST CHECK WITH YOUR PROBATION OFFICER BEFORE STAYING OVERNIGHT ANYWHERE OTHER THAN YOUR PRIMARY RESIDENCE.**
 - Fill out a travel request form if you are seeking permission to leave the state

DUI COURT HANDBOOK– SIGNATURE PAGE

I have read and understand the contents of the McHenry County Adult DUI Court Participant Manual including the program rules, incentives, and sanctions. I have been given a copy of the participant manual in a binder and I will bring this binder with me to all my DUI Court appearances. I understand that in order to be successful in the DUI Court I must follow the rules of the program as well as all treatment recommendations.

Client Name (Printed)

Client Signature

Date

DUI Court Representative Name (Printed)

DUI Court Representative Signature

Date