



TOOLKIT
Florida's Adult Drug Court
Recommended Practices

**Florida Supreme Court Task Force on
Treatment-Based Drug Courts**

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**Office of the State Courts Administrator
Office of Court Improvement
500 South Duval Street
Tallahassee, Florida 32399-1900
Phone: (850) 414-1507**

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Executive Summary

After eighteen years of drug court experience, the expansion of drug courts from felony to misdemeanor, juvenile delinquency and dependency divisions, and the implementation of 106 drug courts, the Florida State Court System has collected and is now disseminating effective practices for use in adult felony drug courts. The information in this Tool Kit will assist in the implementation of drug courts as well as provide the latest information for operational drug courts. And, the problem-solving techniques contained within this Tool Kit are adaptable to most divisions of the court system that need to address substance abuse and addiction with an eye toward improving outcomes and providing better accountability even in the absence of a formal drug court model.

The Tool Kit incorporates information from the premier publication on drug courts: “Defining Drug Courts: The Key Components,” U.S. Department of Justice, Bureau of Justice Assistance (January 1997). Some material is taken verbatim from The Key Components, other material is paraphrased, and supplemental material is provided. The information has been updated with the latest information on all aspects of adult felony drug courts. This Tool Kit presents the Ten Key Components as the Florida Drug Court Standards, which were codified by the legislature in section 397.334, Florida Statutes (2001). Additional material has been drawn from the Model State Drug Court Legislation publication, National Drug Court Institute (May 2004), and other publications on drug court research and evaluation.

Recommended practices are presented for each standard with the understanding that drug courts by their very nature are unique and must be adapted to the culture and availability of resources within a given community. The goal of the Tool Kit is to provide you with the latest and greatest information on adult felony drug court practices, lessons learned, and evidence-based research for each standard. It is up to you to determine the feasibility of implementing these practices in your jurisdiction.

Thought has been given to each discipline participating in the drug court team. Drug court team members should review the practices contained within the Tool Kit and determine to what extent they are already in use in their drug court, and identify those that could be implemented, adjusted, or discontinued. Once this inventory is complete, thought should be given to who might assist in implementing new practices, a time frame for implementation, actions steps to achieve each practice, and a method to measure the success or failure of implementation.

Last, the Tool Kit provides you with a resource guide containing a compilation of state statutes, case law, and reference materials to assist drug courts in the planning, implementation, and operational stages.

Glossary of Terms

1. **AOD** - Alcohol and other drugs.
2. **Co-occurring Disorders** - For the purposes of this publication, co-occurring disorders include substance abuse and mental health disorders.
3. **Drug** - Includes the following:
 - a) a “controlled substance” – a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession.
 - b) an “illegal drug” – a drug whose manufacture, sale use or possession is forbidden by law;
or
 - c) “other harmful substance” – a misused substance otherwise legal to possess, including alcohol.
4. **Drug Court** - A process by which substance abusers entering the court system are placed into treatment and proactively monitored by the judge and a team of justice-system and treatment professionals; it employs effective drug-testing and graduated sanctions and incentives. A drug court incorporates Florida’s Drug Court Standards (see page 7).
5. **Drug Court Coordinator** - Pursuant to section 397.334, Florida Statutes, drug court coordinators within the state courts system are responsible for coordinating the responsibilities of the participating agencies and service providers for the drug court. Each coordinator must provide direct support to the treatment-based drug court program by providing coordination between the multidisciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the treatment-based drug court program with court requirements, and providing program evaluation and accountability.
6. **Drug Court Advisory Committee** - As provided in section 397.334(8), Florida Statutes, the local advisory committee shall consist of the following:
 - (1) chief judge, or his or her designee who shall serve as chair;
 - (2) judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee;
 - (3) state attorney, or his or her designee;
 - (4) public defender, or his or her designee;
 - (5) treatment-based drug court program coordinator(s);
 - (6) community representatives;
 - (7) treatment representatives; and
 - (8) any other persons the chair finds appropriate.

7. **Drug Court Team** - Consists of the following members:

- (1) judge(s);
- (2) prosecutor;
- (3) public defender and/or member of the criminal defense bar;
- (4) drug court coordinator;
- (5) treatment provider;
- (6) case manager;
- (7) Department of Corrections representative (pretrial/probation);
- (8) law enforcement officer;
- (9) an evaluator/researcher;
- (10) clerk of court representative; and
- (11) any other person deemed appropriate.

8. **HIPAA** - The American Health Insurance Portability and Accountability Act.

9. **Relapse** - A return to substance use after a period of abstinence.

10. **Substance Abuse** - The illegal or improper consumption of a “Drug” (see “Drug” definition).

11. **Substance Abuse Treatment** - a program designed to provide prevention, education and therapy directed toward ending substance abuse and preventing a return to substance usage.

Florida Drug Court Standards

In order to be recognized as a drug court in Florida, the following standards must be adhered to at a minimum, pursuant to section 397.334, Florida Statutes (2001). These standards were adopted in 1999 by the Supreme Court Steering Committee on Treatment-Based Drug Courts from “Defining Drug Courts: The Key Components,” U.S. Department of Justice, Bureau of Justice Assistance (1997).

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug, and related treatment and rehabilitation services.
5. Abstinence is monitored by frequent, random alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participants' compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

Collaborative Planning and Teamwork

Standard #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing.

Description

The mission of adult drug courts is to stop the abuse of alcohol and other drugs (AOD) and related criminal activity. Drug courts promote recovery through a coordinated response to individuals dependent on alcohol and other drugs. Realization of these goals requires a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other corrections personnel, law enforcement, pretrial services agencies, Treatment and Accountability for Safer Communities (TASC) programs, evaluations, an array of local service providers, and the greater community. State-level organizations handling AOD issues, law enforcement and criminal justice, vocational rehabilitation, education, and housing also have important roles to play. The combined energies of these individuals and organizations can assist and encourage defendants to accept help that can change their lives.

The criminal justice system has the unique ability to influence a person shortly after a significant triggering event such as arrest, and thus persuade or compel that person to enter and remain in treatment. Research indicates that a person coerced to enter treatment by the criminal justice system is likely to do as well as one who volunteers.

Drug courts usually employ a multi-phased treatment process, generally divided into a stabilization phase, an intensive treatment phase, and a transition phase. The stabilization phase may include a period of AOD detoxification, initial treatment assessment, education, and screening for other needs. The intensive treatment phase typically involves individual and group counseling and other core and adjunct therapies as they are available (see Appropriate Treatment Services section). The transition phase may emphasize social reintegration, employment and education, housing services, and other aftercare activities.

Recommended Practices

1. A drug court may be structured as a felony and/or misdemeanor pre-trial intervention program, pursuant to sections 948.08 and 948.16, Florida Statutes, and/or a post-adjudication or re-entry program pursuant to section 397.334, Florida Statutes.
2. Initial and ongoing planning should be carried out by a multi-disciplinary team, such as a drug court advisory committee, pursuant to Section 397.334, Florida Statutes, which should include persons representing all aspects of the criminal justice system, the local treatment delivery system, funding agencies, and key local community policymakers.

Collaborative Planning and Teamwork

3. Drug court team members may include, but are not limited to, the judge(s), prosecutor, defense counsel, drug court coordinator/case manager, treatment provider, pretrial/probation, law enforcement, evaluator/researcher, clerk of court representative, and any other person deemed appropriate.
4. Every drug court should formally define its mission, goals, eligibility criteria, operating procedures, and performance measures during the planning process and routinely re-evaluate them.
5. The drug court team should meet on a regular basis to address any issues of concern relating to policies, procedures, and the overall operation of the drug court.
6. The team should develop a cross-training plan to assist when staff turn-over occurs.
7. All drug court participants should be required to pay a reasonable portion of the cost to participate. The costs assessed shall be compensatory and not punitive in nature and should be based on a sliding fee scale. Upon a showing of indigency, the drug court may reduce or waive costs. Any fees received from a participant shall not be considered court costs, charges, or fines.

Collaborative Planning and Teamwork

Standard #2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

Description

To facilitate a participant's progress in treatment, prosecutors and defense counsel must shed their traditional adversarial courtroom roles and work together as a team. Once a defendant is accepted into the drug court program, the team's focus is on the participant's recovery and law-abiding behavior - not on the merits of the pending case.

The responsibility of the prosecutor is to protect the public's safety by ensuring that each candidate is appropriate for the program and complies with all drug court requirements. The responsibility of the defense counsel is to protect the participant's due process rights while encouraging full participation. Both the prosecuting attorney and defense counsel play important roles in the court's coordinated strategy for responding to noncompliance.

In addition, the prosecutor and defense counsel should work together with the rest of the team members, including the judge, coordinator, treatment professionals, probation/pretrial officers, and others to provide a coordinated response to the participant's overall compliance with the program requirements.

Recommended Practices

1. Prosecutors and defense counsel participate in the design of screening, eligibility, and case-processing policies and procedures to guarantee that due process rights and public safety needs are served.
2. For consistency and stability of drug court operations, the judge, prosecutor, and court-appointed defense counsel should be assigned to the drug court for a sufficient period of time to build a sense of teamwork and to reinforce a non-adversarial atmosphere.
3. There should be full disclosure of the drug court program requirements prior to entry into the program.

Target Population and Eligibility

Standard #3: Eligible participants are identified early and promptly placed in the drug court program.

Description

Arrest can be a traumatic event in a person's life. It creates an immediate crisis and can force substance-abusing behavior into the open, making denial difficult. The period immediately after an arrest, or after apprehension for a probation violation, provides a critical window of opportunity for intervening and introducing the value of AOD treatment. Judicial action taken promptly after an arrest capitalizes on the crisis nature of the arrest and booking process.

Rapid and effective action also increases public confidence in the criminal justice system. Moreover, incorporating AOD concerns into the case disposition process can be key to linking criminal justice and AOD treatment systems overall.

Recommended Practices

1. The drug court advisory committee, during the planning stages, should identify both the target population and eligibility criteria through established written criteria.
2. When defining the target population, the team should take into consideration the type of offense and the extent of drug-related behavior.
3. Eligibility criteria should identify those individuals from the target population to be served, taking into account practical issues, such as funding requirements, availability of treatment resources, and appropriate caseloads for case managers.
4. Pretrial intervention drug courts should adhere to the statutory requirements for eligibility, pursuant to sections 948.08 and 948.16, Florida Statutes (see Appendix B):
 - **948.08(6)(a), F.S. - Felony Pretrial Intervention Program**
 - Persons charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud.
 - Persons must not have been charged with a crime involving violence.
 - Persons must not have been previously convicted of a felony nor have been admitted to a felony pretrial program.

Target Population and Eligibility

- **948.16, F.S. - Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Program**
 - Persons charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893.
 - Persons must not have previously been convicted of a felony nor have been admitted to a pretrial program.
- 5. Persons should be screened for eligibility immediately following arrest by the appropriate entity within the circuit or county.
- 6. Eligible participants for drug court are promptly advised about program requirements and the benefits of participation.
- 7. Trained professionals should assess drug court-eligible individuals for AOD issues and suitability for treatment.
- 8. Eligible participants should appear before the drug court judge immediately after arrest or apprehension to ensure program participation. The drug court must require eligible participants to enroll in AOD treatment services immediately.
- 9. Drug courts must accommodate persons with physical disabilities.
- 10. A significant number of eligible participants have co-occurring substance abuse and mental disorders; these persons should be considered for admission in drug court programs. Mental health services should be designed and provided for these participants while in substance abuse treatment.
- 11. Treatment-based programs within the justice system generally provide greater reductions in recidivism for offenders in “higher-risk” categories (those with a history of more frequent arrests).
- 12. Screening and assessment should include a review of prescription drug use and whether it is medically necessary. Communication between the court, participant, and medical doctor is important.

Appropriate Treatment Services

Standard #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

Description

The origin and patterns of AOD problems are complex and unique to each individual. They are influenced by a variety of accumulated social and cultural experiences. If treatment for AOD is to be effective, it must utilize primary health and behavioral health care resources and incorporate social and other support services.

In a drug court, the treatment experience begins in the courtroom and continues throughout participation in drug court. In other words, drug court is a comprehensive therapeutic experience, only part of which takes place in a designated treatment setting. The treatment and criminal justice professionals are members of the drug court team.

The drug court team should maintain frequent, regular communication to provide timely reporting of a participant's progress and to ensure that responses to compliance and noncompliance are swift and coordinated. Procedures for reporting progress should be clearly defined in the drug court's operating manual.

While primarily concerned with criminal activity and AOD use, the drug court team also needs to consider concurrent issues such as mental illness, primary medical problems, HIV and other sexually-transmitted diseases, gambling disorders, housing, educational and training needs, employment and job preparation skills, personal relationships and family issues - especially domestic violence - and the long-term effects of childhood physical and sexual abuse. If not addressed, these factors will impair an individual's success in treatment and will compromise compliance with program requirements. Co-occurring disorders should be considered in treatment planning. In addition, treatment services must be relevant to the ethnicity, gender, age, and other characteristics of the participants.

Longitudinal studies have consistently documented the effectiveness of AOD treatment in reducing criminal recidivism and AOD use. A study commissioned by the Office of National Drug Control Policy found AOD treatment is significantly more cost-effective than domestic law enforcement, interdiction, or "source-country control" in reducing drug use in the United States. Research indicates that the length of time an offender spends in treatment is related to the level of AOD abuse and criminal justice involvement. A comprehensive study conducted by the State of California indicated that AOD treatment provides a \$7 return for every \$1 spent on treatment. The study found that outpatient treatment is the most cost-effective approach, although residential treatment, sober living houses, and methadone maintenance are also cost-effective. Comprehensive studies conducted in California and Oregon found that positive outcomes associated with AOD treatment are sustained for several years following completion of treatment.

Appropriate Treatment Services

The National Institute on Drug Abuse (NIDA) recently published a scientific report showing that effective treatment of drug abuse and addiction can save communities money and reduce crime. NIDA's Principles of Drug Abuse Treatment for Criminal Justice Populations outlines proven components for successful treatment which have led to lower rates of drug abuse and criminal activity (NIDA, 2006).

For the many communities that do not have adequate treatment resources, drug courts can provide leadership to increase treatment options and enrich the availability of support services. Some drug courts have found creative ways to access services, such as implementing treatment readiness programs for participants who are on waiting lists for more comprehensive treatment programs. In jurisdictions where treatment programs did not exist, some drug courts have established their own. Other drug courts have made use of pretrial, probation, and public health treatment services.

Recommended Practices

1. Individuals are initially screened and thereafter periodically assessed by both court and treatment personnel to ensure that treatment services and individuals are suitably matched:
 - A. An assessment at treatment entry, while useful as a baseline, provides only a time specific “snapshot” of a person’s needs and may be based on limited or unreliable information. Ongoing assessment is necessary to monitor progress, adjust the treatment plan as necessary, and identify relapse cues.
 - B. If various treatment modalities are available, participants are matched to programs according to their specific needs. Guidelines for placement at various levels should be developed.
 - C. Screening for infectious diseases and health referrals should occur at an early stage.
 - D. Screening should also include identification of other treatable disorders, e.g. mental health and gambling.
2. Treatment services are comprehensive:
 - A. Services should be available to meet the needs of each participant.
 - B. Treatment services should include, but are not limited to the following services: group, individual and family counseling, relapse prevention, cognitive-behavioral therapy (e.g., interventions to address criminal thinking), medication-assisted treatment for opioid addiction, and peer support groups (e.g., 12-step groups). Drug court programs should also provide access to preventive and primary medical care, general health education, medical detoxification, domestic violence programs, and treatment for the long-term effects of childhood physical and sexual abuse. Acupuncture for detoxification and control of cravings has also been found to be a very helpful component of drug court treatment services.

Appropriate Treatment Services

- C. Other important services include housing/transitional housing, educational and vocational training, legal services, money management, anger management, and stress management.
 - D. Specialized services should be considered for participants with co-occurring AOD use and mental health disorders. Drug courts should establish linkages with mental health providers to furnish services (e.g., medication monitoring, acute care) for participants with co-occurring disorders. Flexibility in providing treatment and sanctions is essential in designing drug court services for participants with mental health issues.
 - E. Treatment programs or program components should be designed to address the particular treatment issues of women and other special populations.
 - F. Treatment should be available in a number of settings, including detoxification, jail-based treatment, acute residential, day treatment, outpatient, and sober living residences.
 - G. Clinical case management services should be available to provide ongoing assessment of participant progress and needs, coordinate referrals to services in addition to primary treatment, provide structure and support for participant's who typically have difficulty using services even when they are available, and ensure communication between the court and the various service providers.
3. Treatment services are accessible:
- A. Accommodations should be made for individuals with physical disabilities, for those not fluent in English, for those needing child care, and/or for persons with limited literacy.
 - B. Treatment facilities should be made accessible by public transportation when possible.
 - C. Drug courts should explore ways to address transportation issues to and from treatment sessions and court hearings through the use of bus passes, mobile treatment units, and other services.
4. Funding for treatment is adequate, stable, and dedicated to the drug court:
- A. To ensure that services are immediately available throughout the participant's involvement in drug court, agreements should be made between courts and treatment providers. These agreements are based on firm budgetary and service delivery commitments.

Appropriate Treatment Services

- B. Diverse treatment funding strategies are developed based on government and private sources at national, state, and local levels.
 - C. Health care delivered through managed care organizations should provide AOD treatment resources for its members.
 - D. Payment of fees, fines, and restitution should be part of treatment.
 - E. Fee schedules should be commensurate with an individual's ability to pay without denying services to people who are indigent.
5. Treatment services have quality controls:
- A. Direct service providers are certified or licensed and demonstrate proficiency according to accepted professional standards.
 - B. Education, training, and ongoing clinical supervision are provided to treatment staff.
 - C. Treatment providers are accredited whenever possible.
 - D. Drug courts should monitor participant progress in treatment by:
 - 1. Enforcing the recommended treatment plan.
 - 2. Requiring periodic updates on progress in treatment.
 - 3. Questioning any inconsistency or negative reports of the participant by treatment staff, obtaining a response from the treatment staff, and if appropriate, the agency director and contracting and licensing authority.
6. Treatment agencies are accountable:
- A. Treatment agencies give the court accurate and timely information about a participant's progress. Information exchange complies with the provisions of 42 CFR, Part 2 (the Federal regulations governing confidentiality of AOD abuse patient records) and with applicable state statutes.
 - B. Responses to progress and noncompliance are incorporated into treatment protocols.
 - C. Treatment designs and delivery systems are sensitive and relevant to issues of race, culture, religion, gender, age, ethnicity, and sexual orientation.

Standard #5: Abstinence is monitored by frequent alcohol and other drug testing.

Description

Frequent court-ordered AOD testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant's progress. Modern technology offers highly reliable testing to determine if an individual has recently used specific drugs. Further, it is commonly recognized that alcohol use frequently contributes to relapse among individuals whose primary drug of choice is not alcohol.

AOD testing results are objective measures of treatment effectiveness, as well as a source of important information for periodic review of treatment progress. AOD testing helps shape the ongoing interaction between the court and each participant. Timely and accurate test results promote frankness and honesty among all parties.

AOD testing is central to the drug court's monitoring of participant's compliance. It is cost-effective. It gives the participant immediate information about his or her own progress, making the participant active and involved in the treatment process rather than a passive recipient of services.

Recommended Practices

1. Drug court participants must be drug tested frequently and randomly. In addition, the drug testing process should be observed.
2. Written policies and procedures should outline the type of testing that will be conducted, frequency of the testing, and procedures to follow if a participant challenges a test result.
3. All drug court team members should be trained in drug testing with more comprehensive training to team members administering the drug tests.
4. It should be recognized that as with other chronic illnesses, relapses to drug use can occur during or after successful treatment episodes.
5. AOD testing policies and procedures are based on established and tested guidelines, such as those established by the American Probation and Parole Association. Contracted laboratories analyzing urine or other samples should also be held to established standards.

Drug Testing

6. Drug testing should be administered through the use of *spot* testing and *random* testing. Spot testing is conducted when a participant is suspected of being under the influence and random testing is scheduled to prevent participants from planning ahead to avoid detection.
7. When randomly testing for drugs, a drug court should not conduct testing on a set day of the week because participants can avoid detection by not using drugs a day or two before the drug testing day. Other appropriate methods for random drug testing should be considered, such as altering the days of the week and randomly assigning participants to submit to a test on a given day or week.
8. The scope of testing should be sufficiently broad to detect the participant's primary drug of choice as well as other potential drugs of abuse, including alcohol.
9. The drug-testing procedure must be certain. Elements contributing to the reliability and validity of a urinalysis testing process include, but are not limited to:
 1. Direct observation of sample collection.
 2. Verification of temperature and measurement of creatinine levels to determine the extent of water loading.
 3. Specific, detailed, written procedures regarding all aspects of sample collection, sample analysis, and result reporting.
 4. A documented chain of custody for each sample collected.
 5. Quality control and quality assurance procedures for ensuring the integrity of the process.
 6. Procedures for verifying accuracy when drug test results are contested.
10. Drug courts should consider the use of various testing methods; such as the patch, hair, saliva testing, breathalyzers, and ocular screening.
11. Ideally, test results are available and communicated to the court and the participant within one day. The drug court functions best when it can respond immediately to noncompliance; the time between sample collection and availability of results should be short.
12. The court is immediately notified when a participant has tested positive, failed to submit to AOD testing, submitted the sample of another, or adulterated a sample.
13. The coordinated strategy for responding to noncompliance includes prompt responses to positive tests, missed tests, and fraudulent tests.
14. Participants should be abstinent for a substantial period of time prior to program graduation.

Incentives and Sanctions

Standard #6: A coordinated strategy governs drug court responses to participants' compliance.

Description

An established principle of alcohol and other drug treatment is that addiction is a chronic, relapsing condition. A pattern of decreasing frequency of use before sustained abstinence from alcohol and other drugs is common. Becoming sober or drug free is a learning experience, and each relapse to alcohol and other drug use teaches the participant something about the recovery process.

Implemented in the early stages of treatment and maintained throughout, therapeutic strategies, including both incentives and sanctions, should be aimed at preventing the participant's return to alcohol and other drug use. These strategies help participants learn to manage their ambivalence toward recovery, identify situations that stimulate alcohol and other drug cravings, and develop skills to cope with high-risk situations. Eventually, participants learn to manage cravings, avoid or deal more effectively with high-risk situations, and maintain sobriety for increasing lengths of time.

Many participants exhibit a pattern of positive drug tests within the first several months following admission. Because alcohol and other drug problems take a long time to develop and because many factors contribute to drug use and dependency, it is rare that an individual ceases alcohol and other drug use as soon as he or she enrolls in treatment. Even after a period of sustained abstinence, it is common for participants to occasionally test positive.

Although drug courts recognize that participants have a tendency to relapse, continuing drug use cannot be condoned. Drug courts impose appropriate responses for continued use. Responses to continued use should increase in severity for continued failure to abstain.

A participant's progress through the drug court experience is measured by his or her compliance with the treatment regimen. Cessation of drug use is the ultimate goal of drug court treatment. However, there is value in recognizing incremental progress toward the goal, such as showing up at all required court appearances, regularly arriving at the treatment program on time, attending and fully participating in the treatment sessions, cooperating with treatment staff, and submitting to regular drug testing.

Drug courts must reward progress through the use of incentives as well as respond to noncompliance with appropriate sanctions. Small rewards for incremental successes have an important affect on a participant's sense of purpose and accomplishment. Praise from the drug court judge for regular attendance or for a period of clean drug tests, encouragement from the treatment staff or the judge at particularly difficult times, and ceremonies in which tokens of accomplishment are awarded in open court for completing a particular phase of treatment are all small, but very important rewards that bolster confidence and motivate continued participation.

Incentives and Sanctions

Drug courts establish a coordinated strategy, including a continuum of responses for continued drug use and other noncompliant behavior. A coordinated strategy can provide a common operating plan for treatment providers and other drug court personnel. The criminal justice system representatives and the treatment providers develop a series of complementary, measured responses that will encourage compliance. The manner of conveying the incentive or sanction may affect how the participant perceives it. The participant's perception of the incentive or sanction is important and should be considered. A written copy of these responses, given to participants during the orientation period, emphasizes the predictability, certainty, and swiftness of their application.

Recommended Practices

1. The coordinated strategy should include a continuum of incentives to address progress and sanctions to address continuing drug use and other noncompliant behavior developed by the drug court team. Focus groups with drug court participants are helpful in developing a working list of incentives and sanctions.
2. Incentives and sanctions should be designed as therapeutic strategies to prevent the participant's return to alcohol or other drug use, help a participant maintain recovery, and develop coping skills.
3. Each offender should receive a written copy of the incentives and sanctions protocol to establish predictability, certainty, and swiftness of their application. Behavioral contracts that include specified goals are useful to clarify expectations and to encourage adherence to drug court guidelines.
4. Frequent contact and good rapport among team members and the offender provide a reliable system to monitor the offender's behavior.
5. Incentives and sanctions must be immediate, certain, fair, and of the appropriate intensity. They should be administered as close in time to the targeted behavior as possible.
6. Incentives are good motivators to reward new behaviors. Offenders who are frequently rewarded have been found to stay in treatment while those who are exclusively punished tend to drop out.
7. The first sanction should be strong enough for the offender to understand the consequence of noncompliance with program rules without being viewed as simply punitive.

Incentives and Sanctions

8. Sanctions should gradually increase in intensity. The intensity of the incentive or sanction should be proportional to the conduct being addressed.
9. Both a sanction and an incentive should be administered when both desired and undesired behaviors occur simultaneously.
10. Punishment alone may be the least effective means to affect behavior.
11. Intermittent rewards are best for maintaining a desired behavior.
12. Withholding a sanction to provide the offender with a second chance often does more harm than good.
13. No single set of incentives and sanctions is effective for everyone. They should be tailored to the individual offender by obtaining information on the offender during the assessment interview.
14. The best and most long-lasting incentives are those that come from the offender's everyday environment as a consequence of his or her own efforts..
15. Listening to complaints of unfairness and explaining why a decision has been made to treat offenders differently is helpful.
16. Try to prevent conflicts between treatment and criminal justice system team members with regard to incentives and sanctions.
17. Individualized incentives based upon the characteristics of the offender are more effective.

Standard #7: Ongoing judicial interaction with each drug court participant is essential.

Description

The judge is the leader of the drug court team, linking participants to AOD treatment and to the criminal justice system. This active, supervising relationship, maintained throughout treatment, increases the likelihood that a participant will remain in treatment and improves the chances for sobriety and law-abiding behavior. Ongoing judicial supervision also communicates to participants - often for the first time - that someone in authority cares about them and is closely watching what they do.

Drug courts require judges to step beyond their traditionally independent and objective arbiter roles and develop new expertise. The structure of the drug court allows for early and frequent judicial intervention. A drug court judge must be prepared to encourage appropriate behavior and to discourage and penalize inappropriate behavior. A drug court judge should be knowledgeable about drug testing, treatment methods and their limitations.

Recommended Practices

1. Frequent status hearings should be used to monitor offender's performance.
2. The drug court team, including the judge, should conduct a staffing prior to court to discuss the participant's overall performance in treatment and compliance with other program requirements. After determining the participant's progress or lack thereof, the team should agree on the appropriate response. If the team cannot agree, the judge shall make the decision based upon information presented in the staffing.
3. Elapsed time between hearings should be flexible and adjusted to the need for effective monitoring of the participant.
4. "High risk" drug court participants (offenders with prior treatment failures, anti-social personality disorder, and psychopathy) benefit from bi-weekly monitoring.
5. "Low-risk" drug court participants perform as well with "as needed" monitoring.
6. The drug court judge must encourage appropriate behavior, and discourage and penalize inappropriate behavior.
7. The drug court judge must become knowledgeable about treatment methods, drug testing, and other related issues.

Judicial Monitoring

8. The drug court judge must be able to impose sanctions and provide incentives without the need for a higher level judicial officer's approval.
9. The court should identify whether the drug court participant has other pending cases and coordinate case related matters whenever possible.
10. The drug court should supervise the payment of fees, fines, and/or restitution as part of the offender's participation.
11. The drug court judge must have direct in-court interaction with the offender.

Program Monitoring and Evaluation

Standard #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Description

Fundamental to the effective operation of drug courts are coordinated management, monitoring, and evaluation systems. The design and operation of an effective drug court program results from thorough initial planning, clearly defined program goals, and inherent flexibility to make modifications as necessary.

The goals of the program should be described concretely and in measurable terms to provide accountability to funding agencies and policymakers. And, since drug court will increasingly be asked to demonstrate tangible outcomes and cost-effectiveness, it is critical that the drug court be designed with the ability to gather and manage information for monitoring daily activities, evaluating the quality of services provided and key outcomes, and producing a longitudinal evaluation.

Management and monitoring systems provide timely and accurate information about program operations to the drug court coordinators/case managers, enabling them to keep the program on course, identify developing problems, and make appropriate procedural changes. Clearly defined drug court goals shape the management information system, determine monitoring questions, and suggest methods for finding information to answer them.

Program management provides the information needed for day-to-day operations and for planning, monitoring, and evaluation. Program monitoring provides oversight and periodic measurements of the program's performance against its stated goals and objectives.

Evaluation is the process of gathering and analyzing data to measure the accomplishment of the program's goals. A process evaluation appraises progress in meeting operational and administrative goals (e.g., whether treatment services are implemented as intended). An outcome evaluation assesses the extent to which the program is reaching its short-term goals (e.g., reducing criminal recidivism). An effective design for an outcome evaluation uses a comparison group that does not receive drug court services.

Although evaluation activities are often planned and implemented simultaneously, process evaluation information can be used more quickly in the early stages of drug court implementation. Outcome evaluation should be planned at the beginning of the program as it requires at least a year to compile results, especially if past participants are to be found and interviewed.

Evaluation strategies should reflect the significant coordination and the considerable time required to obtain measurable results. Evaluation studies are useful to everyone, including funding agencies and policymakers who may not be involved in the daily operations of the program. Information and conclusions developed from periodic monitoring reports, process evaluation activities, and

Program Monitoring and Evaluation

longitudinal evaluation studies may be used to modify the program procedures, change therapeutic interventions, and make decisions about continuing or expanding the program.

Information for management, monitoring, and evaluation purposes may already exist within the court system and/or in the community treatment or supervision agencies (e.g., criminal justice data bases, psychosocial histories, and formal AOD assessments). Multiple sources of information enhance the credibility and persuasiveness of conclusions drawn from evaluations.

Recommended Practices

1. It is essential to develop a system for monitoring and evaluation during the planning process. The team should establish critical data elements, which will allow the team to measure specific outcomes.
2. Drug court coordinators should capture statewide critical data elements and performance indicators as identified by the Florida Supreme Court's Task Force on Treatment-Based Drug Courts for the purposes of reporting statewide data for Florida. The drug court coordinators should also capture additional data elements and performance indicators for the program based on local requirements and needs.
3. The statewide critical data elements, as identified by the Florida Supreme Court's Task Force on Treatment-Based Drug Courts, include the following:
 - A. Total number of persons offered participation in drug court.
 - B. Number of eligible persons who were not admitted to the program. (Note: If at all possible, the reasons for nonadmission should be obtained and demographic, case, and criminal history information should be collected for these persons, for comparison purposes.)
 - C. Characteristics of persons admitted to the program, including age, gender, race/ethnicity, and criminal justice history (including all prior felony and misdemeanor convictions and adjudications withheld.)
 - D. Case disposition type.
 - E. Drug(s) of choice.
4. The statewide performance indicators include a definition of recidivism and retention to include:
 - A. **Recidivism:**
 - (1) Any rearrest for a serious offense* resulting in the filing of a charge for drug court participants during involvement in the drug court program and

Program Monitoring and Evaluation

after successful completion of the program for the following time frames: 0-12 months after program completion; 1-2 years after program completion; and 2+ years after program completion. Case disposition should also be captured.

*Serious offenses are defined as any arrest and charge with a crime that carries a sentence of at least one year upon conviction. Though not strictly part of the definition of serious offenses, DUI and misdemeanor drug offenses are also important indicators of drug court effectiveness and should be captured.

- (2) Recommitments to probation or prison within the Department of Corrections while under supervision or not. Includes recommitments for drug court participants during involvement in the drug court program and after completion of the program for the following time frames: 0-12 months after program completion; 1-2 years after program completion; and 2+ years after program completion. The types of arrests (e.g., drug possession, other nonviolent offenses, and violent offenses) and case disposition should be captured.

B. Retention:

Number of persons who are admitted to the drug court program; and the number of persons who successfully complete the drug court program.

5. The team should consider use of an independent evaluator who is included in the planning process.
6. It is not only essential to collect the data, but to do so in a manner that will enable team members to review, evaluate, and report it.
7. Use of automated systems designed to capture critical data elements and adhere to standards of confidentiality is preferred.
8. The team should establish reporting periods for data review and analysis of program operations and effectiveness.
9. Comparison groups of participants, declinations, graduates, and program terminations should be identified for evaluation purposes.
10. Evaluation of the program through the use of comparison groups should examine outcomes such as criminal behavior, relapse, and employment status.

Program Monitoring and Evaluation

11. Evaluations should include cost-benefit analysis of the economic impact of the drug court program, addressing the program's impact on law enforcement costs, corrections, the judicial system, health care, and the increase in economic productivity of the graduates.

Training and Education

Standard #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Description

Periodic education and training ensures that the drug court's goals and objectives, as well as policies and procedures, are understood not only by the drug court leaders and senior managers, but also by those directly involved in the day-to-day operations of the program. Education and training programs also help maintain a high level of professionalism, provide a forum for solidifying relationships among criminal justice and AOD treatment personnel, and promote a spirit of commitment and collaboration.

All drug court staff should be involved in education and training even before the first case is heard. Interdisciplinary education exposes criminal justice members of the team to treatment issues, and treatment staff to criminal justice issues. It also develops shared understandings of the values, goals, and operating procedures of both the treatment and the justice system components. Judges and court personnel typically need to learn about the nature of AOD problems and the theories and practices supporting specific treatment approaches. Treatment providers typically need to become familiar with criminal justice accountability issues and court operations. All need to understand and comply with drug testing standards and procedures.

For justice system or other public officials not directly involved in the program's operations, education should include an overview of the mission, goals, and operating procedures of the drug court.

A simple and effective method of educating new drug court staff is a visit to an existing drug court to observe its operations and ask questions. On-site experience with an operating drug court provides an opportunity for new drug court staff to talk directly to their peers and to see how their particular role functions.

Recommended Practices

1. The drug court team should develop an operating procedures manual that includes the educational and training requirements for team members, including continuing education for each team member.
2. All drug court team members should attend education and training sessions provided locally or by the state and national drug court professional associations.
3. Training should include cross-training by disciplines and team building.
4. Drug court team members should be able to receive continuing professional education credits for attendance.

Training and Education

5. As transition occurs among team members, training is particularly important to acclimate new members and provide cohesiveness for the team.
6. Training and education should include topics such as drug court methodology, substance abuse and addiction, treatment, co-occurring disorders, sanctions and incentives, drug testing standards and protocols, confidentiality and ethics, and proficiency in dealing with participant race, culture, ethnicity, gender, and sexual orientation.

Community Partnership

Standard #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

Description

Because of its unique position in the criminal justice system, a drug court is especially well suited to develop collaborative partnerships among private community-based organizations, public criminal justice agencies, and AOD treatment delivery systems. Forming such collaborative partnerships expands the continuum of services available to drug court participants and informs the community about drug court concepts.

The drug court is a partnership among organizations -- public, private, and community-based -- dedicated to a coordinated and cooperative approach to the AOD offender. The drug court fosters both local and state involvement through commitment of its program partners to share responsibility. As a part of, and leader in the formation and operation of community partnerships, drug courts can help restore public faith in the criminal justice system.

Recommended Practices

1. Partnerships take two forms in the drug court field, the policy makers (advisory committee) and the day-to-day team members (drug court team).
2. The members of the advisory committee should include high level policy makers, including the chief judge, or his or her designee, who shall serve as chair; the judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee; the state attorney/prosecutor or his or her designee; the public defender or his or her designee/private defense bar representative; the treatment-based drug court program coordinator/case manager; community representatives; treatment representatives; and any other persons the chair finds are appropriate. Such other persons should include a law enforcement representative, pretrial/probation representative, and an evaluator/researcher. Others might also include representatives from the faith-based community, educators, and other health and social service representatives. Each of the advisory committee members should formally commit their agency to the agreements reached by the partnership, including memoranda of understanding.
3. The advisory committee should take responsibility for determining the target population, eligibility criteria, sanctions and incentives protocol, resource acquisition, memoranda of understanding between agencies, and drug court policy.
4. The advisory committee should meet annually at a minimum.

Community Partnership

5. The local advisory committee should adhere to guidelines and recommendations of the Florida Supreme Court's Task Force on Treatment-Based Drug Courts and the Florida Association of Drug Court Professionals (FADCP).
6. The members of the drug court team should include those involved in the day-to-day operations of the drug court, including the judge(s); prosecutor; defense counsel; the drug court coordinator/case manager; treatment provider; Department of Corrections representative (pretrial/probation); a law enforcement officer; an evaluator/researcher; a clerk of court representative; and any other person deemed appropriate. Representatives from the advisory committee who are involved with the day-to-day operations of the drug court should be part of the team.
7. The drug court team should meet bi-monthly at a minimum, to address programmatic issues.
8. The membership of the drug court team should reflect the population served.
9. One-on-one partnerships between team members can be important as well.

Confidentiality and Ethics

Description

Drug courts are required to comply with state and federal confidentiality laws, notably Title 42 of the United States Code, sections 2990dd-2 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The respective sections of the Code of Federal Regulations for these laws are 42 C.F.R. Part 2 and 45 C.F.R. parts 160 and 164. Interestingly, 42 C.F.R. is more restrictive in protecting confidentiality than HIPAA. In nearly every case, compliance with 42 C.F.R. will ensure HIPAA compliance.

Potential conflicts between confidentiality laws and drug court procedures can be resolved through the use of consent forms that are drafted and executed consistent with the confidentiality regulations. The Legal Action Center has drafted a number of sample consent forms in its text Confidentiality and Communication: A Guide to the Federal Drug & Alcohol Confidentiality Law and HIPAA (Legal Action Center, 2003).

Ethical behavior on the part of drug court team members is defined in the existing ethical codes for members of the judiciary, bar, law enforcement, probation and treatment. Each team member is directed to its profession's code of ethics for guidance regarding participation as a member of the drug court team. Drug courts create particular ethical challenges for defense attorneys that are reviewed in detail in Critical Issues for Defense Attorneys in Drug Court (National Drug Court Institute, 2003).

Recommended Practices

Confidentiality:

1. In drug court, collaboration and communication are the primary mechanisms for ensuring the participant's progress through the drug court program. For drug court to function smoothly there must be a mechanism for sharing participant treatment information among team members. The team must develop and practice confidentiality protocols in the sharing of treatment information, consistent with 42 C.F.R. Part 2 and HIPAA.
2. The most important element for ensuring that participant confidentiality regarding substance abuse treatment is maintained, while still allowing the team access to treatment information is through the participant's written consent. In the absence of a consent form, there can be no sharing of treatment information. The judge, drug court coordinator, probation or parole officer, or any other appropriate drug court team member should require the participant to execute a consent form at the time of the initial assessment or treatment referral. In this way, consent becomes part of the participant's admission to the drug court.
3. The consent is more ironclad when an individual's assessment or participation in drug court is an official condition of probation, sentencing, or diversion. Special rules in the

Confidentiality and Ethics

confidentiality regulations apply for criminal justice referrals. For example, consent for release of treatment information can be made irrevocable throughout the duration of the individual's participation in drug court. This allows treatment programs to continue to provide information even after the participant completes treatment. Unfortunately, this is one area where 42 C.F.R. is in conflict with HIPAA, which requires that all HIPAA consents be revocable. It is unclear at this time which statute prevails; however, it is clear that treatment providers working with drug courts continue to use irrevocable criminal justice consents whenever the participant's legal status is consistent with the requirements of 42 C.F.R.

4. Consents should be written by treatment providers in such a way that the form authorizes communication among all the parties within the drug court who have a need for information, typically the judge, attorneys, probation officer, and anyone else in the criminal justice system that is monitoring the participant's treatment progress.
5. Finally, the information authorized in a consent should be limited to only information necessary to complete the purpose of the communication. When the purpose is to inform other team members about participation and progress in treatment, the information to be disclosed could include diagnosis, attendance, cooperation, progress and prognosis. Very rarely would the entire treatment file be accessible to other members of the team. Treatment providers should take care to ensure that information released is limited to the minimum necessary given the participant's circumstances.

Ethics:

1. Each professional drug court team member subscribes to a code of professional conduct for his or her profession. The entire code of ethics for addictions professionals can be accessed at floridacertificationboard.org.
2. Drug court practices present judges and attorneys with a different way of conducting business compared to their roles in traditional court. Judges and attorneys should review the National Drug Court Institute's publication entitled Ethical Considerations for Judges and Attorneys in Drug Court (2001).

Appendices

Appendix A: Helpful Drug Court Websites

Local Drug Court Websites:

First Judicial Circuit Drug Courts:

www.firstjudicialcircuit.org/PageView.asp?PageType=R&edit_id=309

Fourth Judicial Circuit Drug Courts:

www.coj.net/Departments/Fourth+Judicial+Circuit+Court/Duval+County/Drug+Court.htm

Fifth Judicial Circuit Drug Courts:

www.circuit5.org/DrugCourts.htm

Sixth Judicial Circuit Drug Courts:

www.jud6.org, Click on “Court Programs”

Seventh Judicial Circuit Drug Courts:

www.circuit7.org/Drug%20Court/Drug%20Court.htm

Eighth Judicial Circuit Drug Courts:

www.circuit8.org/family/, Click on “Specialty Courts”

Ninth Judicial Circuit Drug Courts:

www.ninja9.org/, Go to the Courts link at top of page and click on “Drug”

Eleventh Judicial Circuit Drug Courts:

www.jud11.flcourts.org/programs_and_services/drug_court.htm

Twelfth Judicial Circuit Drug Courts:

www.12circuit.state.fl.us/, Go to the General Information link, click on “Court Programs”, “Drug Court”

Thirteenth Judicial Circuit Drug Courts:

www.fljud13.org/drugcourt.htm

Fourteenth Judicial Circuit Drug Courts:

www.jud14.flcourts.org/CountyPrograms/DrugCourts.htm

Fifteenth Judicial Circuit Drug Courts:

www.co.palm-beach.fl.us/pubsafety/justice/Drug%20Court.htm

Eighteenth Judicial Circuit Drug Courts:

Brevard County - www.clerk.co.brevard.fl.us/ctadmin/drug_court/drug_court.htm

Seminole County - www.flcourts18.org/sp_drug_court.php

Nineteenth Judicial Circuit

www.circuit19.org/court_admin_staff.htm

State Drug Court Websites:

For more information on Florida's drug courts, including publications, drug court funding sources, and other information, visit the Florida State Courts website at www.flcourts.org/gen_public/family/drug_court/index.shtml

Florida Association of Drug Court Professionals (FADCP)
www.fadcp.org

Florida Office of Drug Control
www.flgov.com/drug_control

National Drug Court Websites

Bureau of Justice Assistance, Drug Court Discretionary Grant Program
www.ojp.usdoj.gov/BJA/grant/drugcourts.html

Center for Court Innovation
www.courtinnovation.org, Click on "Drug Court"

Conference of Chief Judges/Conference of State Court Administrators
www.cosca.ncsc.dni.us/index.html

Drug Court Clearinghouse, American University
www.spa.american.edu/justice/drugcourts.php

National Association of Drug Court Professionals
www.nadcp.org

National Center for State Courts
www.ncsconline.org

National Drug Court Institute
www.ndci.org

Office of National Drug Control Policy
www.whitehousedrugpolicy.org

**Appendix B:
Florida Drug Court Statutes**

Section 39.001(4), F.S. - Substance Abuse Services. (Also see sections 39.407, 39.507, 39.521, and 39.701)

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to substance abuse treatment services in the dependency process:

1. To ensure the safety of children.
2. To prevent and remediate the consequences of substance abuse on families involved in protective supervision or foster care and reduce substance abuse, including alcohol abuse, for families who are at risk of being involved in protective supervision or foster care.
3. To expedite permanency for children and reunify healthy, intact families, when appropriate.
4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the drug court program model established by s. [397.334](#) and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address substance abuse problems as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment prior to adjudication shall be voluntary, except as provided in s. [39.407](#)(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in the treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

Section 397.334, F.S. - Treatment-based drug court programs.

(1) Each county may fund a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment services tailored to the individual needs of the participant. It is the intent of the Legislature to encourage the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, the Department of Education, and such agencies, local governments, law enforcement agencies, other interested public or private sources, and individuals to support the creation and establishment of these problem-solving court programs. Participation in the treatment-based drug court programs does not divest any public or private agency of its responsibility for a child or adult, but enables these agencies to better meet their needs through shared responsibility and resources.

(2) Entry into any pretrial treatment-based drug court program shall be voluntary. When neither s. [948.08\(6\)\(a\)1.](#) nor 2. applies, the court may order an individual to enter into a pretrial treatment-based drug court program only upon written agreement by the individual, which shall include a statement that the individual understands the requirements of the program and the potential sanctions for noncompliance.

(3) The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

(a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.

(b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Eligible participants are identified early and promptly placed in the drug court program.

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

(f) A coordinated strategy governs drug court program responses to participants' compliance.

(g) Ongoing judicial interaction with each drug court program participant is essential.

(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.

(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

(4) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. [948.08](#), [948.16](#), and [985.345](#), treatment-based drug court programs authorized in chapter 39, postadjudicatory programs, and review of the status of compliance or noncompliance of sentenced offenders through a treatment-based drug court program. While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team under subsection (3). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. [397.311](#) or in a jail-based treatment program or serving a period of secure detention under chapter 985 if a child or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.

(5) Contingent upon an annual appropriation by the Legislature, each judicial circuit shall establish, at a minimum, one coordinator position for the treatment-based drug court program within the state courts system to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the treatment-based drug court program by providing coordination between the multidisciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the treatment-based drug court program with court requirements, and providing program evaluation and accountability.

(6)(a) The Florida Association of Drug Court Professionals is created. The membership of the association may consist of treatment-based drug court program practitioners who comprise the multidisciplinary treatment-based drug court program team, including, but not limited to, judges, state attorneys, defense counsel, treatment-based drug court program coordinators, probation officers, law enforcement officers, community representatives, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of treatment-based drug court programs. The chair is responsible for providing on or before October 1 of each year the association's recommendations and an annual report to the appropriate Supreme Court committee or to the appropriate personnel of the Office of the State Courts Administrator.

(7) If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. [29.004](#). However, this does not preclude counties from using treatment and other service dollars provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

(8) The chief judge of each judicial circuit may appoint an advisory committee for the treatment-based drug court program. The committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge of the treatment-based drug court program, if not

otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the treatment-based drug court program coordinators; community representatives; treatment representatives; and any other persons the chair finds are appropriate.

History.--s. 1, ch. 2001-48; s. 109, ch. 2003-402; s. 72, ch. 2004-265; s. 6, ch. 2006-97; s. 108, ch. 2006-120.

Section 910.035, F.S. - Transfer from county for plea and sentence.

(1) INDICTMENT OR INFORMATION PENDING.--A defendant arrested or held in a county other than that in which an indictment or information is pending against him or her may state in writing that he or she wishes to plead guilty or nolo contendere, to waive trial in the county in which the indictment or information is pending, and to consent to disposition of the case in the county in which the defendant was arrested or is held, subject to the approval of the prosecuting attorney of the court in which the indictment or information is pending. Upon receipt of the defendant's statement and the written approval of the prosecuting attorney, the clerk of the court in which the indictment or information is pending shall transmit the papers in the proceeding, or certified copies thereof, to the clerk of the court of competent jurisdiction for the county in which the defendant is held, and the prosecution shall continue in that county upon the information or indictment originally filed. In the event a fine is imposed upon the defendant in that county, two-thirds thereof shall be returned to the county in which the indictment or information was originally filed.

(2) INDICTMENT OR INFORMATION NOT PENDING.--A defendant arrested on a warrant issued upon a complaint in a county other than the county of arrest may state in writing that he or she wishes to plead guilty or nolo contendere, to waive trial in the county in which the warrant was issued, and to consent to disposition of the case in the county in which the defendant was arrested, subject to the approval of the prosecuting attorney of the court in which the indictment or information is pending. Upon receipt of the defendant's statement and the written approval of the prosecuting attorney, and upon the filing of an information or the return of an indictment, the clerk of the court from which the warrant was issued shall transmit the papers in the proceeding, or certified copies thereof, to the clerk of the court of competent jurisdiction in the county in which the defendant was arrested, and the prosecution shall continue in that county upon the information or indictment originally filed.

(3) EFFECT OF NOT GUILTY PLEA.--If, after the proceeding has been transferred pursuant to subsection (1) or subsection (2), the defendant pleads not guilty, the clerk shall return the papers to the court in which the prosecution was commenced, and the proceeding shall be restored to the docket of that court. The defendant's statement that he or she wishes to plead guilty or nolo contendere shall not be used against the defendant.

(4) APPEARANCE IN RESPONSE TO A SUMMONS.--For the purpose of initiating a transfer under this section, a person who appears in response to a summons shall be treated as if he or she had been arrested on a warrant in the county of such appearance.

(5) Any person eligible for participation in a drug court treatment program pursuant to s. [948.08\(6\)](#) may be eligible to have the case transferred to a county other than that in which the charge arose if the drug court program agrees and if the following conditions are met:

(a) The authorized representative of the drug court program of the county requesting to transfer the case shall consult with the authorized representative of the drug court program in the county to which transfer is desired.

(b) If approval for transfer is received from all parties, the trial court shall accept a plea of nolo contendere and enter a transfer order directing the clerk to transfer the case to the county which has accepted the defendant into its drug court program.

(c) The transfer order shall include a copy of the probable cause affidavit; any charging documents in the case; all reports, witness statements, test results, evidence lists, and other documents in the case; the defendant's mailing address and phone number; and the defendant's written consent to abide by the rules and procedures of the receiving county's drug court program.

(d) After the transfer takes place, the clerk shall set the matter for a hearing before the drug court program judge and the court shall ensure the defendant's entry into the drug court program.

(e) Upon successful completion of the drug court program, the jurisdiction to which the case has been transferred shall dispose of the case pursuant to s. [948.08\(6\)](#). If the defendant does not complete the drug court program successfully, the jurisdiction to which the case has been transferred shall dispose of the case within the guidelines of the Criminal Punishment Code.

History.--s. 1, ch. 72-45; s. 1514, ch. 97-102; s. 2, ch. 2001-48; s. 7, ch. 2006-97.

Section 948.08, F.S. - Pretrial intervention program.

(1) The department shall supervise pretrial intervention programs for persons charged with a crime, before or after any information has been filed or an indictment has been returned in the circuit court. Such programs shall provide appropriate counseling, education, supervision, and medical and psychological treatment as available and when appropriate for the persons released to such programs.

(2) Any first offender, or any person previously convicted of not more than one nonviolent misdemeanor, who is charged with any misdemeanor or felony of the third degree is eligible for release to the pretrial intervention program on the approval of the administrator of the program and the consent of the victim, the state attorney, and the judge who presided at the initial appearance hearing of the offender. However, the defendant may not be released to the pretrial intervention program unless, after consultation with his or her attorney, he or she has voluntarily agreed to such program and has knowingly and intelligently waived his or her right to a speedy trial for the period of his or her diversion. The defendant or the defendant's immediate family may not personally contact the victim or the victim's immediate family to acquire the victim's consent under this section.

(3) The criminal charges against an offender admitted to the program shall be continued without final disposition for a period of 90 days after the date the offender was released to the program, if the offender's participation in the program is satisfactory, and for an additional 90 days upon the request of the program administrator and consent of the state attorney, if the offender's participation in the program is satisfactory.

(4) Resumption of pending criminal proceedings shall be undertaken at any time if the program administrator or state attorney finds that the offender is not fulfilling his or her obligations under this plan or if the public interest so requires. The court may not appoint the public defender to represent an indigent offender released to the pretrial intervention program unless the offender's release is revoked and the offender is subject to imprisonment if convicted.

(5) At the end of the intervention period, the administrator shall recommend:

(a) That the case revert to normal channels for prosecution in instances in which the offender's participation in the program has been unsatisfactory;

(b) That the offender is in need of further supervision; or

(c) That dismissal of charges without prejudice shall be entered in instances in which prosecution is not deemed necessary.

The state attorney shall make the final determination as to whether the prosecution shall continue.

(6)(a) Notwithstanding any provision of this section, a person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence,

including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence; and who has not previously been convicted of a felony nor been admitted to a felony pretrial program referred to in this section is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. [397.334](#), approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant is subject to a coordinated strategy developed by a drug court team under s. [397.334\(3\)](#). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. [397.311](#) or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. [943.0585](#).

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the administrator pursuant to subsection (5) and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. [397.334\(3\)](#), if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include substance abuse treatment programs offered by licensed service providers as defined in s. [397.311](#) or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(d) Any entity, whether public or private, providing a pretrial substance abuse education and treatment intervention program under this subsection must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. [948.15\(3\)](#).

(7) The department may contract for the services and facilities necessary to operate pretrial intervention programs.

History.--s. 6, ch. 74-112; s. 1, ch. 75-301; s. 24, ch. 77-120; s. 1, ch. 77-174; s. 36, ch. 79-3; s. 1, ch. 80-329; s. 9, ch. 91-225; s. 6, ch. 91-280; s. 1, ch. 93-229; ss. 1688, 1689, ch. 97-102; s. 13, ch. 97-107; s. 123, ch. 99-3; s. 1, ch. 99-152; s. 3, ch. 2001-48; s. 16, ch. 2001-110; s. 6, ch. 2002-297; s. 8, ch. 2006-97.

Note.--Former s. 944.025

Section 948.16, F.S. - Misdemeanor pretrial substance abuse education and treatment intervention program.

(1)(a) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. [397.334](#), approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. [397.334](#)(3). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. [397.311](#) or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. [943.0585](#).

(2) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. [397.334](#)(3), if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

(3) Any public or private entity providing a pretrial substance abuse education and treatment program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. [948.15](#)(3).

History.--s. 4, ch. 2001-48; s. 9, ch. 2006-97.

Section 985.345, F.S. - Delinquency pretrial intervention program.

(1) Notwithstanding any provision of law to the contrary, a child who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893; tampering with evidence; solicitation for purchase of a controlled substance; or obtaining a prescription by fraud, and who has not previously been adjudicated for a felony, is eligible for voluntary admission into a delinquency pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. [397.334](#), approved by the chief judge or alternative sanctions coordinator of the circuit to the extent that funded programs are available, for a period based on the program requirements and the treatment services that are suitable for the offender, upon motion of either party or the court's own motion. However, if the state attorney believes that the facts and circumstances of the case suggest the child's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes by a preponderance of the evidence at such hearing that the child was involved in the dealing and selling of controlled substances, the court shall deny the child's admission into a delinquency pretrial intervention program.

(2) While enrolled in a delinquency pretrial intervention program authorized by this section, a child is subject to a coordinated strategy developed by a drug court team under s. [397.334](#)(3). The coordinated strategy may include a protocol of sanctions that may be imposed upon the child for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. [397.311](#) or serving a period of secure detention under this chapter. The coordinated strategy must be provided in writing to the child before the child agrees to enter the pretrial treatment-based drug court program or other pretrial intervention program. Any child whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. [943.0585](#).

(3) At the end of the delinquency pretrial intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the delinquency pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. [397.334](#)(3), if the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or urine monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

(4) Any entity, whether public or private, providing pretrial substance abuse education, treatment intervention, and a urine monitoring program under this section must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. [948.15](#)(3). It is the intent of the Legislature that public or private entities providing substance abuse education and treatment intervention programs involve the active participation of parents, schools, churches, businesses, law enforcement agencies, and the department or its contract providers.

History.--s. 3, ch. 93-196; s. 37, ch. 94-209; s. 13, ch. 95-267; s. 50, ch. 97-238; s. 83, ch. 98-280; s. 10, ch. 2006-97; s. 42, ch. 2006-120.

Note.--Former s. 39.0475; s. 985.306.

**Appendix C:
Florida Drug Court Case Law**

Advisory Opinion to the Attorney General re: Right to Treatment and Rehabilitation for Non-Violent Drug Offenses, 818 So.2d 491 (Fla. 2002)

C.H. v. State, 850 So. 2d 675 (Fla. 4th DCA 2003)

Diaz v. State, 884 So. 2d 299 (Fla. 2nd DCA 2004)

Hewlett v. State, 661 So. 2d 112 (Fla. 4th DCA 1995)

Jones v. State, 813 So. 2d 22 (Fla. 2002)

Lloyd v. State, 876 So. 2d 1227 (Fla. 4th DCA 2004)

Mann v. Chief Judge of the Thirteenth Judicial Circuit, 696 So. 2d 1184 (Fla. 1997)

Mullin v. Jenne, 890 So. 2d 543 (Fla. 4th DCA 2005)

Pena v. State, 913 So. 2d 1203 (Fla. 4th DCA 2005)

Physicians Healthcare Plans, Inc. v. Pfeifler, 846 So. 2d 1129 (Fla. 2003)

Smith v. State, 840 So. 2d 404 (Fla. 4th DCA 2003)

Staley v. State, 851 So. 2d 805 (Fla. 2nd DCA 2003)

State v. Center For Drug Free Living, Inc., 842 So. 2d 177 (Fla. 5th DCA 2003)

State v. VanBebber, 848 So. 2d 1046 (Fla. 2003)

T.N. v. Portesy, 932 So. 2d 267 (Fla. 2nd DCA 2005)

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