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□ MHCT □ DCT

WEST VIRGINIA TREATMENT COURT DIVERSION PROGRAMS
(Mental Health Court and Drug Court)

REFERRAL FORM

Person Making Referral: *[print name]*_____
Relationship to Defendant: *[check appropriate box]*

□ Law Enforcement □ Prosecutor
□ Defense Attorney □ Judge/Magistrate
□ Pretrial Release □ Jail
□ Other:_____ *[identify]*

Referral Being Made To: *[check correct box]*
□ Mental Health Court Diversion Program
□ Drug Court Diversion Program

Referral Date:_____ County:_____

Defendant: Name, Last:_____
First:_____ MI:_____
[REQUIRED for criminal background check for eligibility]:
Social Security No. _____
Date of Birth: _____

Defendant's Location: *[check correct box]*

□ REGIONAL JAIL_____
□ HOME ADDRESS
Street:_____
City:_____
State:_____ Zip:_____
Phone Number:_____
□ OTHER *[identify]*
Name:_____
Street:_____
City:_____
State:_____ Zip:_____
Phone Number:_____

Crime(s) Charged:_____
□ *[check box if ANY charged crime is a FELONY offense]*

Judge:_____ Prosecutor:_____

Defense Attorney:_____

Signature of Referring Individual:_____
□ Referral taken by phone □ Referral by email or other writing *[attach copy]*

Signature of DCC or ICMO indicating receipt of referral:

Date:_____ Signature:_____

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WEST VIRGINIA TREATMENT COURT DIVERSION PROGRAMS
(Mental Health Court and Drug Court)

Defendant Request and Consent to Participate in Diversion Program

☐ Mental Health Court ☐ Drug Court

Defendant Name: _____
[Print Full Name]

County: _____

Case Number: _____ Date: _____

Charge(s): *[Check if felony or misdemeanor and list current charge(s)]*

- ☐ Felony _____
- ☐ Misdemeanor _____

[Have defendant read and initial each item listed below and then sign and date.]

☐ I am requesting and understand that I am being considered for diversion into a Treatment Court Diversion Program, Mental Health Court (MHCT) or Drug Court (DCT), as I may qualify.

☐ I understand that in order to qualify for diversion, I must meet certain legal and clinical criteria, and that there is no right to acceptance, nor guarantee that I will be accepted.

☐ I understand that the diversion program is voluntary and that I may choose at any time to decline and have my case proceed on the regular criminal docket.

☐ I am a resident of the State of West Virginia.

☐ I understand that, while I am being considered for diversion, my criminal case will continue, I must continue to make all scheduled criminal or other court appearances, and that a warrant for my arrest will be issued if I fail to attend court hearings.

☐ I agree to participate in the evaluation process to determine if I qualify for diversion and to help me decide if I want to enter the diversion program if I qualify.

☐ I agree to cooperate in the intake process, including filling out forms and providing releases so that the diversion program can obtain relevant information about me, including medical, mental health, and substance abuse treatment information.

☐ I agree to participate in psychological, substance abuse, and risk evaluations that will include completing written forms and tests and interviews with mental health and/or substance abuse professionals.

☐ I agree to permit the Treatment Court team to share the information they obtain about me among themselves and with the mental health professionals who evaluate me to determine whether I qualify for diversion.

☐ I agree to furnish the necessary consents and releases to enable the Treatment Court team to complete the intake process.

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☐ I understand that a member of the Treatment Court team may gather relevant information from members of my family, which include family, social, and clinical history.

☐ I understand that the Treatment Court team will only share confidential clinical information about me with my family members if I consent to such disclosure.

☐ I can terminate this process by informing the court at my next scheduled hearing that I do not want my case further considered for the diversion program.

☐ I understand that the clinical information that is gathered in the diversion intake process will NOT be used against me if my case remains on or is returned to the regular criminal docket.

☐ I understand that if my case is accepted into the diversion program, I may be required to:

- Take medications as prescribed;
- Submit to random urinalysis testing;
- Maintain a residence;
- Apply for local, state, and/or federal entitlement programs;
- Not have contact with specific persons; and
- Agree to or fulfill other conditions as may be required by the Treatment Court Judge or Magistrate.

☐ I understand that if my case is accepted into the diversion program, I will be required to:

- Agree that my right to speedy trial will be tolled while I continue in the program and otherwise waive having my case heard within applicable time limits;
- Fulfill a Treatment Plan of up to one year duration if I am charged with a misdemeanor;
- Fulfill a Treatment Plan of at least one year duration and up to the maximum sentence time period permitted for any felony with which I am charged;
- Not commit any new crime
- Not possess weapons;
- Not consume alcohol, street drugs, or other non-prescribed drugs.

☐ I understand that if I am charged with a felony, I may be required to admit commission of the crime for acceptance into the diversion program.

☐ I understand that if I am accepted into the diversion program, any treatment and services provided me to fulfill the requirements of my Treatment Plan may be billed by the provider to my insurance, Medicaid, or any other sources of payment, including directly to me.

☐ I understand that information about my case may be used for statistical purposes to evaluate the diversion program.

☐ I understand that if I successfully complete the requirements of the diversion program, either my charges will be dismissed or my sentence reduced.

My next scheduled court appearance is _____

_____ _____

Defendant's signature Date

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WEST VIRGINIA TREATMENT COURT DIVERSION PROGRAMS
(Mental Health Court and Drug Court)

Authorization for Release of Psychiatric, Psychological, Mental Health Treatment, Substance Abuse, Addiction, Medical and/or Hospital Information and Records

TO: _____
[Insert Name of Provider to Whom Authorization Directed]

Patient Name: _____
Social Security Number: _____
Birth Date: _____
Date(s) of Service: _____

This is to authorize any psychiatrist, psychologist, mental health provider, substance abuse or addiction provider, physician, hospital, medical attendant, medical provider, or any others to whom this authorization is directed, to provide any and all information and/or opinions, orally or in writing, which any representative of the West Virginia Treatment Court Diversion Programs (Drug Court or Mental Health Court) may request, regarding my present or past physical, emotion and/or mental condition and/or treatment rendered and to allow any representative of the West Virginia Treatment Court Diversion Programs to see or copy any x-rays, pathology specimens or slides, records, report, or documents which you may have regarding my condition and/or treatment.

Your full cooperation with the West Virginia Treatment Court Diversion Programs (Drug Court or Mental Health Court) is respectfully requested and appreciated.

Any photocopy of this authorization shall have the same force and effect as the original.

_____ _____
Participant Date

_____
Witness

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WEST VIRGINIA TREATMENT COURT DIVERSION PROGRAMS
(Mental Health Court and Drug Court)

Consent for Psychological/Mental Health and Substance Abuse/Addiction Evaluation And Risk Assessment

Candidate Name: _____
Case No.: _____ DOB: _____
County: _____ SS#: _____

I, _____, having requested and being
[Name of Defendant]
considered for diversion into West Virginia's Treatment Court Diversion Programs [MHCT and DCT], consent to psychological/mental health and substance abuse/addiction evaluation and risk assessment, which will require me to complete written and/or oral forms and tests and interview with mental health and/or substance abuse/addiction professional(s) selected by the program.

I agree that the Treatment Court Diversion Programs may share any information obtained about me with these professional(s), and the professional(s) may share all results of the psychological/mental health and substance abuse/addiction evaluation and risk assessment, which will include treatment recommendations, with the Treatment Court Diversion Programs. I understand that the results of the psychological/mental health evaluation and risk assessment will be used by the Treatment Court Diversion Programs for the purpose of determining whether I am eligible for diversion, and if accepted into the program will be shared with other members of the Treatment Court team and used for provider referrals, development of a treatment plan, and other appropriate Treatment Court processes.

Agreed to by:

_____ _____
Defendant Date

_____
Witness

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WEST VIRGINIA TREATMENT COURT DIVERSION PROGRAMS
(Mental Health Court and Drug Court)

Graduated Sanctions Notification and Agreement

I acknowledge that if I am accepted as a participant in the diversion program, in addition to various incentives and positive rewards which may occur while I am in the program, the following graduated sanctions can and may occur if I do NOT comply with the terms of the Diversion Agreement ordered by the Court or my treatment plan while I am a participant in the MHCT/DCT Diversion Program:

- Warnings & admonishment from the judge/magistrate, that may be done from the bench in open court [Court hearings are generally held in open court with other program participants present, exception occur for certain MHCT participants.]
- Demotion to earlier program phases
- Increased frequency of testing and court appearances
- Confinement in the courtroom or jury box
- Increased monitoring and/or treatment intensity
- Fines
- Increased requirement of community service or work programs
- Escalating periods of jail confinement
- Termination from the program and reinstatement of regular criminal court processing

I acknowledge that graduated sanctions are not used to "punish" or as an end in themselves, but as part of a therapeutic strategy to move me toward a drug free and sober lifestyle or stabilization of my illness, through a motivational system of escalating sanctions. Short periods of escalating jail time (generally 1 to 7 days) will be used if necessary as ordered by the judge/magistrate.

Sanctions OTHER THAN those listed above, which the judge/magistrate determines may be motivating to me, may be used. The list above is not exhaustive, but representative of possible sanctions.

The judge/magistrate may order sanctions in any order, combination, or frequency as determined may be beneficial for me.

Acknowledged and agreed to by:

_____ _____

Participant Date

_____

Witness

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☐ MHCT ☐ DCT

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia
v. Case No: _____

_____
Defendant

DEFENDANT'S WAIVER OF TIME LIMITS AND RIGHT TO TRIAL IN THE SAME TERM OF COURT

I, _____, defendant in the above-captioned
[Insert Name of Defendant]
criminal action, after being advised of my right to trial in the same term as when an indictment is issued, do hereby waive my right to a trial during this term of court and any following term for as long as I am a participant in West Virginia's Treatment Court Diversion Programs (the Mental Health Court Diversion Program or Drug Court Diversion Program). I also waive having my case heard within any and all other applicable time limits while I am a participant in the Mental Health or Drug Court Diversion Program. Thus, I agree to have my case continued into another or subsequent terms of court during my participation in the Mental Health or Drug Court Diversion Program, and agree to the tolling of all applicable time limits during my participation in the Mental Health or Drug Court Diversion Program.

I understand that should I be terminated from or otherwise removed or released from the Mental Health or Drug Court Diversion Program without graduation, this waiver will no longer be of any force or effect and any continuances or tolling of time limits will terminate and the criminal case against me shall proceed.

Agreed to by:

_____ _____
Defendant Date

Approved by:

_____ _____
Counsel for Defendant Date

_____ _____
Prosecutor Date

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☐ MHCT ☐ DCT

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia
v. Case No: _____

_____
Defendant

DIVERSION AGREEMENT
AND
ACCEPTANCE OF DEFENDANT INTO
TREATMENT COURT DIVERSION PROGRAM (Mental Health Court or Drug Court)

The State of West Virginia by and through the Prosecuting Attorney and Defendant agree that the prosecution in this matter will be held in abeyance for the period of diversion and that Defendant is hereby accepted into the *[check appropriate program]* ☐ Mental Health Court Diversion Program (MHCT) ☐ Drug Court Diversion Program (DCT), upon the condition that the defendant shall: *[initial all applicable conditions]*

_____ 1. Admit commission of _____and
[description of charged felony crime(s)]
that this admission MAY be used against the defendant in court.
[OR in the alternative if defendant is NOT being required to admit to the crime for diversion, do NOT initial this requirement.]

_____ 2. Not commit any new crimes.

_____ 3. Not possess any weapons.

_____ 4. Not consume alcohol, street drugs, or other non-prescribed drugs.

_____ 5. Take all medications as prescribed.

_____ 6. Submit to random urinalysis testing upon request.

_____ 7. Cooperate with all treatment and services outlined in the defendant's treatment plan and any subsequent or amended treatment plan ordered by the MHCT/DCT.

_____ 8. Attend all court hearings as scheduled.

_____ 9. Keep all meetings and appointments as scheduled, including but not limited to those with any pretrial officer, home confinement officer, mental health case manager, ICMO, DCC, and service/treatment provider.

_____ 10. Agree to tolling of the defendant's right to a speedy trial during diversion and to otherwise waive having this case heard within applicable time limits.

_____ 11. Consent to the release and exchange of health, mental health and substance abuse/chemical dependency records and information for and between the MHCT, DCT, treatment team, and treatment providers.

_____ 12. Reside at: _____
[address]
_____
[city] *[state]* *[zip]* *[phone]*

_____ 13. Get approval of the program's ICMO or DCC before changing residence and notify the program's ICMO or DCC of change in phone number (or contact phone number) within 24 hours of change.

_____ 14. Do NOT contact: _____ in any

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way (NO talking, phoning, or sending letters or electronic mail or messages) or have anyone try to contact that person for you. Do NOT return to the residence of

_____, located at _____

_____.

_____ 15. Acknowledge that the successful completion of the diversion agreement will result in: *[check applicable resolution]*
_____ Dismissal of the charges in this matter.
_____ Expungement and dismissal.
_____ Entry of a guilty verdict with a reduced sentence of: _____
_____.

_____ 16. Agree to MHCT/DCT supervision for the time period of _____ *[not to exceed maximum allowed sentence for crime charged or admitted]*. Drug Court supervision must be for at least one year plus six months consecutive "clean" time (months without substance use) prior to graduation.

_____ 17. Acknowledge that compliance with the terms of this Agreement and defendant's treatment plan are a condition of defendant's release and/or bond, if any, which can be revoked as a consequence of defendant's failure to comply with any provision of this Agreement or defendant's treatment plan and any amendments thereto.

_____ 18. Acknowledge and agree to the implementation of graduated sanctions as outlined in separate notification and agreement, including possible jail time, in the event of noncompliance with the terms of this Agreement or defendant's treatment plan and any amendments thereto during my inclusion in the diversion program.

_____ 19. Agree to apply for Medicaid, and any other local, state or federal entitlement programs as may be applicable for defendant.

_____ 20. Acknowledge that the cost of any treatment and services provided the defendant may be billed by the provider of the treatment or service to any applicable insurance, Medicaid or other legally permitted or obligated payor source of or for the defendant, including to defendant.

_____ 21. Furthermore, the defendant agrees to the following additional conditions:

_____

_____

_____

Compliance with the conditions of this Agreement will be monitored by the MHCT ICMO or DCT DCC, and the MHCT/DCT Judge will be advised of any violations.

AGREED this _____day of _____ 20____.

_____	_____
Defendant	**Defendant's Attorney**
_____	_____
Prosecutor	**Judge**

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☐ MHCT ☐ DCT

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia
v. Case No: _____

_____
Defendant

ORDER DIVERTING CASE FROM REGULAR CIRCUIT COURT CALENDAR TO TREATMENT COURT (MHCT/DCT) DIVERSION PROGRAM

As the Mental Health Court (MHCT)/Drug Court (DCT) Circuit Judge has found the above-captioned case meets criteria for participation in the *[check correct program]* ☐ MHCT Diversion Program ☐ DCT Diversion Program, and the defendant has entered into a diversion agreement which includes tolling of the defendant's right to a speedy trial during diversion and to otherwise waive having this case heard within applicable time limits, it is,

Therefore, **ORDERED** that the above case be and is hereby diverted and transferred from the regular Circuit Court calendar/docket of Circuit Court Judge _____ to the calendar/docket of MHCT/DCT Circuit Judge _____.

The Clerk shall transmit attested copies of this Order to counsel of record for the defendant, and the Prosecuting Attorney of _____ County, West Virginia.

ENTERED this _____ day of _____, 20_____.

_____
MHCT/DCT Judge

_____
Circuit Judge (if different from MHCT/DCT Judge)