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WEST VIRGINIA ADULT TREATMENT COURT PROGRAMS STATEWIDE POLICY AND PROCEDURES MANUAL

Intrastate Adult Drug Court Participant Transfer Protocol

I. PURPOSE OF INTRASTATE TRANSFER

It is recognized that cooperative intrastate drug court transfer may be a beneficial tool for participant success in the drug courts of West Virginia. Change of residential location, temporary or permanent, can be therapeutically beneficial for some participants who are seeking to remove triggers and temptations while seeking recovery from substance abuse and addiction. In addition, due to limitations in programming, temporary housing, and other services which may be beneficial to the recovery of a drug court participant, relocation may be desired to permit participation in such services or programming, but make necessary supervision of a drug court participant difficult to accomplish. In some cases participation in beneficial services and programming cannot be permitted due to other drug treatment court requirements, such as intensive supervision, community service, etc., that cannot be accomplished outside of a specific geographic area by the drug court team and staff. Mutual, cooperative, permanent or temporary, transfers of participant supervision and programming may therefore be beneficial between the drug treatment courts in West Virginia, enhancing both the participating programs and individual participant success.

Although West Virginia drug courts admit into their programs persons who can be served by the specific drug treatment court, it is recognized that after admission, circumstances and conditions involving participants may change and needs specific to success of the individual may arise that could be successfully addressed by intrastate cooperation between West Virginia's drug courts. Nevertheless, intrastate transfer of drug court participants should be the exception and not the standard as each drug court works to enhance and provide services and programs in its region of the state.

II. DEFINITIONS

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"Sending" program, entity or person: A program, entity or person of the drug treatment court in the jurisdiction where the underlying crime(s) was committed and criminal jurisdiction lies, and in which the participant was initially enrolled in drug treatment court.

"Receiving" program, entity or person: A program, entity or person of the drug treatment court to which the participant wants to transfer, supporting either temporary or permanent relocation.

III. TRANSFERS BETWEEN POST-PLEA AND PRE-PLEA PROGRAMS AND ADDRESSING DIFFERENCES AMONG PROGRAMS

Adult drug courts in West Virginia operate as post-plea, pre-plea, or both, depending upon local choice of implementation. In all drug treatment courts, program participants are diverted from traditional criminal justice processing while in drug court. In addition, differences in availability of treatment and other services result in variations in phases and requirements for graduation among the various drug courts. All drug courts provide for a minimum of one-year participation in treatment prior to graduation.

Participants may transfer into unlike programs (such as from a pre-plea program into a post-plea program or vice versa) or into similar programs subject to the following:

(1) Graduation from the receiving court requires the participant to be returned to the sending drug treatment court for final handling and conclusion in the sending jurisdiction of the underlying criminal charges or plea in accord with the original agreement made in the sending drug court. The participant's graduation will be credited to the receiving drug court's success statistics, and not those of the sending drug court.

(2) Termination of the participant from the receiving drug court prior to graduation requires the participant to be returned to the sending drug court for either further participation in the sending drug court as determined by its treatment team and its drug court judge or magistrate, or for return by the

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sending drug court to the criminal justice system of the sending program for prosecution and/or sentencing as may be appropriate in the given case.

(3) All rewards, sanctions, programming and other participation will be in accord with that of the receiving program as long as the participant is enrolled/supervised in that program, including program phases and requirements. Excepted from this is the requirement of pre or post pleas since the participant will be returned to the sending drug court for concluding the underlying criminal matters. It will be understood that if the transferred participant violates the conditions of participation in the receiving program, possible sanctions may include, but are not limited to, return of the participant to the sending program. Once returned to the sending program, the receiving drug court may elect to reject continued transfer of the participant.

IV. ACCEPTANCE OF TRANSFERS BY THE RECEIVING DRUG TREATMENT COURT

A receiving Drug Court may elect to reject a transfer request. It is recognized that drug court programs in West Virginia have varying levels of funding and limits on acceptable numbers of participants who can be supervised, as well as, other local program variances that may affect a specific program's ability or willingness to accept transfer participants.

V. METHOD OF TRANSFER REQUESTS

Drug treatment court participants who desire intrastate relocation and transfer to another operating drug court in West Virginia, may complete Treatment Court Form 110 (see attached) requesting consideration for transfer. Intrastate transfer is not a right and may be refused by the drug court judge or magistrate handling the case.

The sending drug treatment court judge or magistrate must sign Treatment Court Form 110 as approved for transfer before the transfer request may officially be sent to the receiving drug court for consideration. Informal inquiry prior to the official request between the drug courts can be made.

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Outgoing transfer requests will be made by the DCC, approved by the drug court judge or magistrate handling the case, to the receiving program's DCC. The request will include a cover letter, cover email, or cover fax, and the Transfer Packet (see description in subsection below). A phone call regarding the transfer request shall be made prior to sending the transfer request to the DCC of the receiving program by the DCC of the sending program. The DCC of the receiving program shall take the Transfer Packet to the drug court team and drug court judge or magistrate for consideration.

The Transfer Packet shall include copies of:

1. The completed and signed Treatment Court Form 110;
2. All assessments/evaluations completed of the participant by the originating drug treatment court;
3. A listing of the current drug court programming in which the participant is enrolled; and
4. A listing of the current criminal charges pending against the participant.

A receiving drug court shall either reject or accept a transfer request within seven (7) days of receipt of the Transfer Packet by forwarding a completed Transfer Request Response Form 111 (see attached), signed by the receiving drug court judge or magistrate.

Upon notice of acceptance of the transfer by the receiving drug court, the sending DCC shall forward a complete copy of the transferring participant's drug court file to the receiving DCC within seven (7) days.

The DCC of the sending program shall supply the transferring participant prior to the participant's relocation with the contact information of the receiving drug court program, to include at a minimum the name, address, and phone number of the receiving DCC, and supply the receiving DCC with the name, address, phone number, and any other contact information for the transferring participant.

VI. PARTICIPANT PROGRESS COMMUNICATIONS

A communication arrangement regarding the status of the transferred participant shall be agreed upon between the sending and receiving drug courts. The

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receiving DCC shall notify the sending DCC of any sanctions assessed against the transferred participant within seven (7) judicial days of the sanction.

VII. METHOD OF TRANSFER RETURNS

A. Return by Sanction/Termination

If the participant is sanctioned by either return of the participant to the sending program or termination from the receiving treatment court, the receiving program's DCC shall contact the sending program's DCC to find out how the sending program wants the participant handled regarding return of the case (take the participant into custody to await transportation or give the participant reporting instructions back to the sending program). The original sending program controls how the participant will be handled in this situation. A closure letter shall follow that conversation within five (5) judicial days.

The following copies shall be forwarded to the DCC of the original sending program by the receiving DCC no later than the return of the participant:

1. Any new assessment(s)/evaluation(s) completed of the participant while in the receiving program;
2. A list of the programming in which the participant is enrolled; and
3. Any additions made to the participant's Drug Court file by the receiving program.

B. Return by Graduation

Once the transferred participant completes the requirements of the receiving drug court for graduation, the receiving program's DCC shall contact the sending program DCC regarding the participant's upcoming graduation and to schedule the graduate with the original sending drug treatment court for finalization of the underlying criminal matters. A closure letter shall follow that conversation within five (5) judicial days including the participant's current address and phone number, and the date, location and time of the participant's scheduled graduation ceremony.

Subsequent to the above notification of completion of graduation requirements, the original sending drug court shall finalize and conclude the graduate's

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underlying criminal matters not later than fourteen (14) judicial days post graduation.