

STATE OF MICHIGAN GENESEE COUNTY 7 th JUDICIAL CIRCUIT 67 th DISTRICT COURT	IN RE: MENTAL HEALTH COURT	LOCAL ADMINISTRATIVE ORDER 2018-03J
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7th Judicial Circuit Court, 900 S. Saginaw St., Flint, MI 48502 (810) 424-4355
67th District Court, 630 S. Saginaw St., Flint, MI 48502 (810) 257-3181

Administrative Order _____
Rescinds previous Administrative Order 2010-6J, 2010-

ORDER FOR THE ESTABLISHMENT OF A MENTAL HEALTH COURT PROGRAM

IT IS ORDERED:

This administrative order is issued in accordance with MCL 600.1090 et seq. The purpose of this order is to establish, upon approval by the State Court Administrative Office (SCAO), a Mental Health Court in the 7th Circuit and 67th District Courts to service Genesee County. All policies and procedures comply with the mental health court statute and are consistent with the *10 Essential Elements of a Mental Health Court* promulgated by the Bureau of Justice Assistance (See Attachment A) as required by MCL 600.1090(e)(ii).

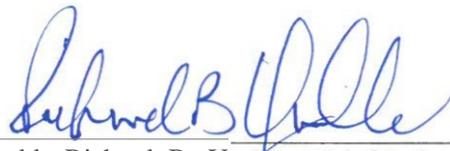
This order is further issued to authorize a cooperative venture between the 7th Circuit Court, 67th District Court, Genesee Health System, the Genesee County Sheriff's Department, the Genesee County Prosecutor's Office, and other local law enforcement agencies. The agencies listed above have come together based on the philosophy that this community can better serve our mentally ill and the individuals whose lives are affected by them by combining resources and staff and working toward a common goal. The goal is to divert into long term mental health treatment mentally ill individuals who have been charged with a criminal offense that meets the eligibility criteria.

1. The court shall enter into a Memorandum of Understanding (Attachment B) with each participating county prosecuting attorney in the circuit or district court district, a representative of the community mental health services programs, a representative of the criminal defense bar, a representative of community treatment providers and other key parties pursuant to MCL 600.1091(1). The Memorandum of Understanding shall describe the role of each party.
2. The court has established eligibility criteria consistent with MCL 600.1093 through 600.1095.
3. In compliance with MCL 600.1093(3), no participant shall be admitted to the program until a complete preadmission screening and an evaluation assessment are completed.
4. All participants shall sign a written agreement to participate in the program in conformance with MCL 600.1094(1)(c).

5. The court shall maintain case files in compliance with the General Records Retention and Disposition Schedule 16 – Michigan Trial Courts, and the Michigan Case File Management Standards. The court has established procedures to ensure substantial compliance with Part 2 of Title 42 of the Code of Federal Regulations and the Health Insurance Portability and Accountability Act (HIPAA) to safeguard the confidentiality of Mental Health Court records.
6. The court has established, as part of its program requirements, procedures to ensure compliance with MCL 600.1096 and 600.1097.
7. Pursuant to MCL 600.1099, the court shall provide the SCAO with the minimum standard data established by the SCAO for each individual applicant and participant of the Mental Health Court. The court shall use the Drug Court Case Management Information System (DCCMIS) to maintain and submit the minimum standard data determined by the SCAO.
8. To the greatest extent possible, the court shall adhere to and follow the SCAO's *Adult Mental Health Court Standards, Best Practices, and Promising Practices* manual (March 2017) in its function and operation.

Effective Date: 1/1/11

Date: 1/3/18



Honorable Richard B. Yule, Chief Judge
7¹¹ Judicial Circuit Court
67¹ District Court

ATTACHMENT A

The 10 Essential Elements of a Mental Health Court as Promulgated by the Bureau of Justice Assistance

Essential Element #1: Planning and Administration

A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.

Essential Element #2: Target Population

Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.

Essential Element #3: Timely Participation Identification and Linkage to Services

Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

Essential Element #4: Terms of Participation

Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

Essential Element #5: Informed Choice

Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.

Essential Elements #6: Treatment Support and Services

Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use and increase the availability of – treatment and services that are evidence-based.

Essential Element #7: Confidentiality

Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.

Essential Element #8: Court Team

A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.

Essential Element #9: Monitoring Adherence to Court Requirements

Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

Essential Element #10: Sustainability

Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.

ATTACHMENT 8

Genesee County Mental Health Court Memorandum of Understanding

This memorandum officially acknowledges the affiliation, relationship and understanding among the 7th Circuit Court, 67th District Court, Genesee County Prosecutor's Office, Genesee County Sheriff's Department, and Genesee Health System to participate in a coordinated Genesee County Mental Health Court (GCMHC).

Mission

To serve Genesee County residents in the criminal justice system through a specialized treatment court docket focusing on mental health treatment.

Vision

Establish a problem-solving court which will identify those defendants charged with either a felony or misdemeanor offense who suffer from mental illness to:

1. Provide mental health treatment services, substance abuse services, education, and vocational opportunities as appropriate and practicable.
2. Provide intensive probation monitoring and court supervision.
3. Coordinate services between the courts, probation officers, treatment providers, and any service providers.
4. Achieve program goals through teamwork and a collaborative effort.
5. Reduce criminal behavior and decrease incarceration of the mentally ill.
6. Enhance the quality of life for participants throughout Genesee County.
7. Treat the needs of the defendant promptly and professionally.

Structure of the Mental Health Court

The Genesee County Mental Health Court will be comprised of the 7th Circuit Court and 67th District Court. The participating courts will share resources including: probation officers, court-appointed defense attorneys, and forms. GCMHC cases will include defendants who suffer from mental illness. The cases may include both felonies and misdemeanors.

By design, this problem-solving court will provide defendants with a structure to obtain the necessary treatment to minimize the likelihood of future criminal court involvement. The court is highly interactive. This ensures that all those involved in the process have access to each other and share information and treatment goals toward one end: help the participant succeed.

Entry into the Mental Health Court

Entry into the GCMHC shall be governed by MCL 600.1094. The Mental Health Court shall accept referrals from the 67th District Court or 7th Circuit Court upon a determination of whether the individual would meet program eligibility requirements based on a preadmission screening

and evaluation assessment. **No defendant is able to enter the program without the full consent and agreement of the prosecuting authority.**

The individual(s) (i.e., defense counsel and/or appropriate prosecuting authority) seeking a determination of program eligibility shall complete a pre-referral eligibility screening form to the Mental Health Court Coordinator. Once the preadmission screening and evaluation assessment is completed, the trial court will determine whether to refer the case to Mental Health Court.

Eligibility - Personal/Clinical

A potential GCMHC participant must be at least 17 years of age, a resident of Genesee County, and eligible for services through Genesee Health System. The individual must also be eligible for Medicaid. The individual must have an established mental health history, or otherwise exhibit symptoms that would lead to a diagnosis of mental illness following clinical screening through Genesee Health System. A potential participant must have an Axis I diagnosis of Schizophrenia, Schizoaffective disorder or Bipolar Affective disorder by a licensed and qualified mental health professional.

A potential GCMHC participant must acknowledge in writing a willingness to take medication. The individual must have the capacity to understand the requirements of Mental Health Court, the consequences for failure to follow those requirements and the ability to comply with terms of bond or probation. The individual must not pose an unacceptable risk of harm to Mental Health Court staff or the community.

If the individual is indigent, an attorney shall be appointed to represent the individual at county expense. If the individual has sufficient income to retain an attorney, the case may proceed with retained counsel. Individuals will not be allowed to participate in the program without representation by an attorney.

Eligibility - Charge(s)

Any individual meeting personal/clinical eligibility who pleads guilty or no contest to, or is convicted of any misdemeanor and/or felony except for crimes listed under the Delayed Sentencing Act (MCL 77 1.1). Violent offenders (as defined in MCL 600.1090 et seq.) may not participate in Mental Health Court.

Procedure

If a defendant is charged in a criminal case, a district court pre-trial will be scheduled. At the pre-trial, a waiver of right to a preliminary examination must be properly executed. For a felony offense, a bind-over document will be filed transferring the case to the circuit court. The trial court judge assigned to the case will schedule the matter for arraignment and plea.

If the individual is willing to participate in the Mental Health Court program, he/she shall enter a plea of guilty or no contest to the allegations and sign an agreement to participate in the program. Sentencing shall be delayed for not more than one year provided the individual complies with

treatment, or participation in Mental Health Court shall be imposed as a condition of probation following entry of a judgment of sentence. If the individual is not willing to participate in the program the case shall continue in normal fashion in the 67th District Court or 7th Circuit Court.

Upon acceptance of the plea, the trial court will execute a referral order and the case will be referred to the Mental Health Court Judge for participation in Mental Health Court. A copy of the plea agreement shall be forwarded to the Mental Health Court and made part of the participant's file. If the participant is successful and graduates from the program, the case will be dismissed or closed pursuant to the terms of the plea agreement or order of probation. Further detailed protocol for criminal case disposition is set forth in the Mental Health Court Policy and Procedure Manual. If the individual is unsuccessful, the case shall be referred back to the assigned trial court judge and scheduled for sentencing.

Upon entry into Mental Health Court, the participant shall appear for weekly status review hearings before the Mental Health Court Judge. The case will be monitored for compliance for a period not to exceed 365 days, or as determined by the Mental Health Court Judge based on the progress of the participant. The Genesee Health System representative shall notify the court of any non-compliance on the part of the participant.

Upon completion of the program the charge(s) shall be disposed of pursuant to the plea agreement or condition(s) of referral provided that the participant entered Mental Health Court pursuant to the Delayed Sentencing Act. If the participant entered Mental Health Court as a condition of probation following entry of a judgment of sentence the charge(s) will not be dismissed. Mental Health Court graduation does not constitute a release of a defendant's responsibility to pay all applicable court fines, court costs, court fees, and restitution resulting from the criminal charge(s).

A determination of successful/unsuccessful participation will be made by the Mental Health Court Judge so as to allow any necessary sentencing to take place within 12 months of the date of acceptance of the plea by the trial court. Specific criminal case processing procedures, program requirements, and expectations are detailed in the Mental Health Court Policy and Procedure Manual provided to all participants and stakeholders.

Roles of the Parties

The Mental Health Court Judges shall approve or deny entry into the program, conduct all hearings including review hearings, approve all participating treatment providers and treatment programs, assist all other stakeholders in evaluating and improving the program, and otherwise oversee court staff and operation of the Mental Health Court.

The Genesee County Prosecuting Attorney (or appropriate prosecuting authority) is the gatekeeper for participation in the program. The prosecuting attorney shall review cases with consideration for referral of potential participants to the program, make recommendations and approve proposed plea and sentencing agreements, and assist all other stakeholders in evaluating and improving the program.

The Genesee County Sheriff shall assist the court staff with providing participant information and data collection relative to the screening process for entry into the program, coordinate with the court regarding transport and release from the Genesee County Jail, and assist all other stakeholders in evaluating and improving the program.

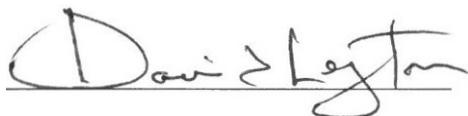
Genesee Health System shall provide treatment and other services to the participants in Mental Health Court. Genesee Health System shall assist all other stakeholders in evaluating and improving the program.

Defense Counsel Representative(s) shall ensure defendants'/participants' procedural and due process rights are observed and protected, assist defendants'/participants' with understanding program requirements and potential sanctions for non-compliance, and assist all other stakeholders in evaluating and improving the program.



Honorable Richard B. Bille, Chief Judge
711 Judicial Circuit Court
67th District Court

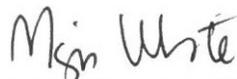
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Date: / - 3-Jc/

Genesee County Sheriff



Mr. Major White
Criminal Defense Attorney

Date: \Z'tg } 1 ""



Mr. Danis Russell
Chief Executive Officer
Genesee Health System

Date: 1)..-d-o-t 7