

Women's Substance Use Disorder Prosecutor-Led Diversion and Treatment Program



7th Judicial District of the District Court, Douglas County, KS

Women's Substance Use Disorder Prosecutor-Led Diversion
and Treatment Program Protocols

INTRODUCTION

In March 2018, the Douglas County Women's Substance Use Disorder Prosecutor-Led Diversion and Treatment Program was established to more effectively address the increasing number of non-violent repeat female participants cycling through the local court systems and the adult detention center.

The program is a specialized pre-trial, prosecutor-led diversion program targeting, incarcerated females where they are released to a meaningful monitoring program with support services aimed at addressing substance use, mental health, housing and employment, resulting in restoration of their social status. The program will identify and oversee participant s' involvement in supportive services aimed at reducing their return to custody. The diversion will last up to 12 month and will be for women incarcerated at Douglas County Correctional Facility, who have an identified substance use disorder, and who are selected for participation based on medical necessity criteria and Reentry screening.

The diversion program is supported by the Douglas County Sheriff's Office Reentry Program and DCCCA.

GOAL:

Our goal is to reduce Justice System involvement of Non-Violent Female Offenders with Substance Use Disorders by utilizing a Prosecutor-led Diversion, community resources and services.

OBJECTIVES:

- Reduce utilization of the Jail.
- Reduce Recidivism
- Reduce Substance use and maintain recovery

ELIGIBILITY FOR WOMEN'S SUBSTANCE USE DISORDER PROSECUTOR-LED DIVERSION
AND TREATMENT PROGRAM

1. Defendants who are female.
2. Defendants with misdemeanor, nonviolent charges are eligible. Those with felony and/or violent charges will be considered on a case-by-case basis. Individuals with homicide and sex crime charges are ineligible.
3. Defendants that are repeat offenders with at least one (1) prior offense.
4. Defendants with a Substance use disorder diagnosed by DCCCA.
5. Defendants must agree to participate in the treatment program.
6. Defendants must be a Douglas County resident.
7. Participation in program is voluntary and the participant must be willing to participate in community treatment. The participant also must be willing to sign a release of information for details pertaining to his or her mental health treatment, substance use, legal status, and criminal and treatment history to be shared with the team, for the purpose of treatment planning and supervision.

ACCEPTANCE PROCESS INTO WOMEN'S SUBSTANCE USE DISORDER PROSECUTOR-LED DIVERSION AND TREATMENT PROGRAM

1. The Reentry Case manager will contact the District Attorney's office and Community Corrections/Adult Services with information regarding the proposed participant's case they are recommending for the program.
2. The District Attorney will then review the proposed participants case and criminal history for possible entry into the program. The District Attorney's office identifies if the proposed participant would be a good candidate for the program and does not pose a public safety concern.
3. If the District Attorney believes the defendant is eligible for the program, the prosecutor will notify the First Appearance Judge and the participant's appointed attorney.
4. The participant's attorney will advise and provide the participant information about the program and explain the conditions of participation and their legal rights. If the participant agrees to participate, the defense attorney will have the participant sign a release of information allowing his/her information to be shared with the team. All court appearance must be made by the participant unless/until a diversion agreement has been signed and accepted by the District Court. A Diversion review hearing will be scheduled monthly. The diversion review hearing will be to evaluate the participant's progress in meeting her treatment goals.
5. The District Attorney's office will contact DCCCA to facilitate the substance use assessment. The Reentry Case Manager will work with DCCCA to ensure access to the proposed participant if she is in the Correctional Facility, or if already released, make arrangements for the participant to arrive at First Step at Lake View at the scheduled assessment time. DCCCA will facilitate the assessment within 36 hours of the initial referral (not including weekends and holidays), and make preliminary arrangements for treatment admission. DCCCA will obtain a written release of information from the participant that allows communication with the District Attorney's office and the Reentry Case Manager.
6. Immediately following the assessment, DCCCA will email the District Attorney's office and Reentry Case Manager with the assessment results, recommended treatment level and scheduled admission date. The participant will be given information necessary to prepare for admission. The scheduled admission will be no later than 36 hours (not including weekends and holidays) from the assessment appointment.
7. DCCCA will send a copy of the assessment summary and recommendations to the District Attorney's office, Reentry Case Manager, Defense Attorney and any other pertinent members of the diversion team, with participant consent within 48 hours of the assessment appointment.
8. All participants accepted in the program will complete a Diversion Agreement with the District Attorney's Office. A Diversion is a privilege and not a right. No presumption in favor of diversion exists in any case, and the burden of persuasion rests with the applicant to establish that a diversion agreement will best serve the ends of justice, the interests of the community, public safety and the rights of the victims.

In determining whether or not to grant diversion, the District Attorney will consider whether the applicant demonstrates a genuine sense of remorse and is prepared to acknowledge the act(s) charged and accountability for the consequences of her actions. Other factors to consider are the nature of the crime and the circumstances surrounding it, the probability that the applicant will cooperate and benefit from the program, the impact on the community of placing the applicant on diversion, the recommendations of the

involved law enforcement officers and of the victims, the amount of restitution owed, and any mitigating and aggravating circumstances surrounding the crime.

9. The Participants attorney will meet with the participant to review and sign the Diversion Agreement.

10. The District Attorney's Office will file a Motion and Order to Stay Prosecution with the District Court to stay the prosecution of the case.

11. The participant will be transported to First Step at Lake View by Douglas County Reentry on the scheduled admission date.

PARTICIPANT ASSESSMENT and TREATMENT PROCESS

Acceptance into the program requires monitoring with support services aimed at addressing substance abuse, mental health, housing, and employment. The treatment provider is DCCCA. DCCCA provides a comprehensive treatment continuum. They will complete a comprehensive assessment to determine the appropriate level of care the participant will need. They will provide short term, intensive residential treatment, Intensive Outpatient Treatment with supportive housing and extended community based outpatient services at First Step at Lake View. Each participant will be offered services in each modality, including medical, psychiatric and mental health evaluation and services; housing and childcare for their children; peer support services; and medication assisted treatment when clinically indicated.

1. All participants accepted for the program, will be required to develop an individualized treatment plan with the DCCCA team. Treatment plans are flexible and adjusted based on the participant's individual needs and goals. They take into account the individual capabilities, strengths and holistic needs including physical, mental, and spiritual interests. Treatment plans are regularly updated to reflect the participant's progress.
2. The Reentry Case Manager and DCCCA Therapist will be responsible for making all referrals to support and services indicated on the treatment plan.
3. The Reentry Case Manager and DCCCA Therapist will ensure that all services are provided according to the treatment plan and that the participant is engaged in their treatment by following up with the participant and treatment providers regularly.
4. The Reentry Case Manager, DCCCA Therapist and Pre-Trial Services will work closely with Probation services and the jail in communicating progress in treatment.
5. The Reentry Case Manager, DCCCA Therapist, and Pre-Trial services will participate in scheduled staffing and provide the court with regularly scheduled Clinical Progress Reports. These progress reports will include a summary for each client. The DCCCA Therapist will provide overall status updates.
6. The Douglas County Reentry and Assess-Identify-Divert (AID) teams will facilitate access to community based services including housing, job readiness and employment, available financial and health insurance resources and help ensure compliance with probation or parole requirements. Housing options may include the Lawrence Douglas County Housing Authority or Oxford House.

CRIMINAL JUSTICE/COURT SERVICES SUPERVISION

Individuals currently on supervised probation with the 7th Judicial District Court Services or Douglas County, Kansas Criminal Justice Services- Community Corrections are required to report as directed and comply with all conditions set forth by the Court. If your probation officer believes you have violated the terms and conditions of your probation, an affidavit may be submitted to the Court. The probation officer will advise the Court that you are an approved participant in the SUD program, and may request that the probation violation hearing is continued until the outcome of your SUD Diversion Case. Should you successfully complete the SUD program, the probation officer may recommend to the Court that the affidavit be withdrawn. The Court may allow your probation to terminate; you may be continued on your assignment under the original terms and conditions of your probation; or, other action may be taken as ordered by the Court. If you fail to successfully complete the SUD program, the motion to revoke your probation will proceed.

If you are placed on supervised probation in another jurisdiction, but residing in Douglas County, you may be supervised by 7th Judicial District Court Services or Douglas County, Kansas Criminal Justice Services-Community Corrections as a courtesy for the sending jurisdiction. You understand that Douglas County has no authority to override the Court's decision in the original jurisdiction, if a motion to revoke is submitted.

HEARING PROCESS

The Initial First Appearance will be conducted in the Pro Tem Courtroom. The proposed participant will be assigned an attorney from the list of special defense attorneys assigned to the program and the case will be sent to a Division Judge assigned by the Pro Tem Judge. The Diversion Agreement, Motion to Stay Prosecution, Order to Stay Prosecution and Stipulation of Facts will be e-filed with the court upon the proposed participant's acceptance and agreement to participate in the program.

No further hearings will be needed unless a Motion to Revoke Diversion is filed with the District Court. In that case, the case will be taken back up through the regular court process.

INCENTIVES AND SANCTIONS

Incentives are used to assist the participant in achieving treatment goals. The team determines incentives based upon recommendations from the team. Sanctions are used to assist the participant in achieving treatment and public safety goals.

PROGRAM REQUIREMENTS

The program requirements are developed on a case-by-case basis designed to best meet the needs and abilities of each participant. Each client is referred to DCCCA and a Therapist specifically assigned to the program for treatment planning, monitoring, accountability, and coordination. These professionals also provide information to the Court at scheduled staffing and court reviews. General program requirements include the following:

1. Attend all court appearances/meetings
2. Follow Reentry Case Management Plan
3. Follow First Step at Lake View Treatment plan goals and achieve the majority of the treatment plan goals and objectives for the level of treatment that was needed based on the evaluation or achieve the maximum benefit from the level of treatment that was needed based on the evaluation.
4. Payment of Court Costs and Attorney's Fees
5. Follow terms of Diversion Agreement.

CONFIDENTIALITY

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

1. All proposed participants will be required to sign the "Douglas County Criminal Justice Multi-Agency Authorization for Release of Confidential Information" form in order to be considered for the program. This can be done at the initial screening. This form allows a covered entity under the Health Insurance Portability and Accountability Act -HIPPA to share medical information with the team.

2. Proposed participants should not be asked to sign release of information forms until competency issues, if raised, have been resolved.

3. Program files will not be a matter of public record. The files will be treated as confidential treatment records, and access to them will be limited to the team.

4. The staffing sessions will be limited to team members and persons who may not be on the team but who are identified in the release of information. All matters considered in the staffing are confidential, and will not be discussed or disclosed by the team members outside of the staffing, except as required by agency supervisors, other team members unable to attend the session or providers, as necessary for treatment purposes.

5. Alcohol and drug abuse client records, including those managed by DCCCA, are afforded special privacy protections by Chapter 42 of the Code of Federal Regulations (CFR) Part 2. These regulations prohibit DCCCA staff from disclosing information to someone not directly associated with the treatment program that an individual attended a service (assessment or treatment), has previously attended a service, or disclose any information identifying an individual as a treatment participant unless:

- The individual consents in writing,
- The disclosure is allowed by the court order process outlined in 42 CFR Part 2,
- The disclosure is made to medical personnel in a medical emergency, or to qualified personnel for research, audit or program evaluation, or
- The disclosure is made to protect the client or another person from serious injury.

DCCCA will obtain 42 CFR Part 2 approved releases of information from the participant. A release will be executed for each entity involved in the participant's diversion and treatment program.

TERMINATION

The diversion may be revoked by the District Attorney by filing of a motion with the District Court. Revocation may be sought when it is alleged the participant:

- Has been unsuccessfully terminated from treatment
- Committed a new law violation
- Committed a new probation or parole violation
- Failed to comply with any terms or conditions of the diversion agreement.

REVOCATION OR WITHDRAWAL OF DIVERSION PROGRAM

If the participant diversion agreement is revoked by the State or the participant no longer wishes to participate in the diversion agreement a Motion to Revoke Diversion will be filed with the Court and if granted the Participant's case will be returned to criminal court for prosecution upon the stipulated facts agreed to by the parties in the diversion agreement.