

# **DRUG COURT MISDEMEANOR ELIGIBILITY CHECKLIST**

The Defendant is not detained and

Not currently charged with a violent misdemeanor<sup>1</sup> or a weapons offense;

**No more than one** additional pending criminal case. The charge in any pending case cannot be a violent misdemeanor, a violent felony<sup>2</sup>, or any weapons offense;

**For diversion cases only**, not on probation, parole, or supervised release for a violent misdemeanor, a weapons offense, or ANY felony;

No prior convictions for a violent felony for which the defendant was serving a sentence, or on probation, parole, or supervised release within the last ten years;

Positive drug test result on the day of arrest, or at initial appearance, or after a random spot test<sup>3</sup>, and;

An Addiction Severity Index (ASI) indicating substance abuse or dependence.

## *Superior Court Drug Intervention Program*

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1 Violent misdemeanors include assaults, threats, and stalking.

2 The following felony charges are considered violent felonies for purposes of Drug Court eligibility without regard to whether they are considered crimes of violence under the D.C. Code:

Murder, Voluntary Manslaughter, Sexual Abuse or Rape, Child Sex Crimes or Abuse, Cruelty to Children; Mayhem/Malicious Disfigurement, Assault on a Police Officer, Assault with Intent to Commit Any Offense, Assault with a Dangerous Weapon, Aggravated Assault, Carjacking, Kidnapping, Robbery, Burglary, Arson, Extortion or Blackmail Accompanied by Threats of Violence, Carrying a Pistol Without a License, Carrying a Dangerous Weapon, Attempt or Conspiracy to commit any of the above offenses, Felony Threats, Possession of a Firearm During a Crime of Violence/Possession While Armed & Any Felony While Armed.

3 A defendant can also satisfy the drug history requirement for Drug Court if: (1) the defendant has at least three prior positive drug test results in the Pretrial Services Agency record system in the last 12 months; or (2) the defendant has a verified history of drug treatment for substance abuse in the last 12 months with a drug treatment provider. This should occur in conjunction with a motion to certify a case from a regular criminal calendar to the Drug Court calendar, rather than at arraignment.

## *Misdemeanor Certification Procedures*

The following are procedures to certify *misdemeanor* cases:

### **Certification from a Criminal Division Calendar:**

**STEP 1:** If the Court seeks to preliminarily certify a case to the Drug Court calendar because a defendant's current charge meets the Drug Court eligibility criteria, the calendar judge must call the Drug Court Unit (202-220-5505) and request a complete screening of the defendant's criminal and drug history to determine program eligibility (see Misdemeanor Eligibility Criteria). This can be done fairly quickly, often within thirty minutes. If Drug Court responds that the defendant meets preliminary eligibility criteria, the calendar judge may then *certify* the case to the Drug Court calendar by setting a status date. The Drug Court representative will coordinate a status date on Tuesday or Thursday within the next two weeks with the calendar judge, and the defendant will receive written notice of the status date. The calendar judge also will order the defendant to complete an immediate, same-day substance abuse assessment with the PSA Social Services and Assessment Center (202-220-5595). The Drug Court representative will notify the Drug Court courtroom clerk of the scheduled status date.

**If the case is pre-adjudication**, and the defendant is found to be *eligible* for participation in the Misdemeanor Diversion Program after receiving a substance abuse assessment, participation must be approved by the USAO upon receiving notification of eligibility by Drug Court. If the USAO notifies Drug Court in writing that approval is granted, Drug Court will notify the defense counsel. If defense counsel initiates the certification process *within 15 days of arraignment*, the USAO will not oppose the certification motion as a matter of course. **PLEASE NOTE: The USAO will oppose certification for the Misdemeanor Diversion Program as a matter of course after a trial date has been set.**

**If the case is post-adjudication**, and the defendant is found to be *eligible*, the certification process must be initiated after the calendar judge accepts the plea or after the defendant is found guilty at trial. The Court must, however, inquire on the record whether the defendant understands that (s)he will be sentenced by the presiding judge on the Drug Court calendar and not by the judge who presided over the trial or who accepted the guilty plea.

**STEP 2:** At the status hearing, Drug Court program requirements will be explained to the defendant, and if (s)he elects to enter the program, (s)he will sign the Sanctions Contract, and the Drug Court judge will sign a new release order placing the defendant in Drug Court. Any conditions of release on prior release orders should be reviewed by the USAO and the Court for inclusion on the new release order. If the defendant decides not to enter into the Drug Court program at the status hearing, (s)he will be returned to the original criminal calendar.

**STEP 3:** If the defendant is found to be *ineligible* after reporting for the substance abuse assessment, at the status hearing Drug Court staff will notify the Drug Court judge, who will return the case to the calendar judge.

## **DRUG COURT**

# FELONY ELIGIBILITY CHECKLIST

The Defendant is not detained and is charged with one of the offenses listed in the box below, and has

**No more than one** additional pending criminal case. The charge in any pending case cannot be a violent misdemeanor<sup>1</sup>, a violent felony<sup>2</sup>, or any weapons offense;

No prior convictions for a violent felony for which the defendant was serving a sentence, or on probation, parole, or supervised release within the last ten years;

A positive drug test result on the day of arrest, or at initial appearance, or after a random spot test<sup>3</sup>, and;

An Addiction Severity Index (ASI) indicating substance abuse or dependence.

Defendants charged with PWID (Unarmed) or Distribution (Unarmed), Theft I, Unauthorized Use of a vehicle, Forgery, Receiving Stolen Property, Uttering, BRA, Fraud, and Escape/Prison Breach **can be certified to Drug Court from a criminal calendar.**

Defendants charged with PWID (Unarmed) or Distribution (Unarmed) **can be certified to Drug Court at presentment.**

## Superior Court Drug Intervention Program Felony Certification Procedures

- 1 Violent misdemeanors include assaults, threats, and stalking.
- 2 The following felony charges are considered violent felonies for purposes of Drug Court eligibility without regard to whether they are considered crimes of violence under the D.C. Code:  
  
Murder, Voluntary Manslaughter, Sexual Abuse or Rape, Child Sex Crimes or Abuse, Cruelty to Children; Mayhem/Malicious Disfigurement, Assault on a Police Officer, Assault with Intent to Commit Any Offense, Assault with a Dangerous Weapon, Aggravated Assault, Carjacking, Kidnapping, Robbery, Burglary, Arson, Extortion or Blackmail Accompanied by Threats of Violence, Carrying a Pistol Without a License, Carrying a Dangerous Weapon, Attempt or Conspiracy to commit any of the above offenses, Felony Threats, Possession of a Firearm During a Crime of Violence/Possession While Armed & Any Felony While Armed.
- 3 A defendant can also satisfy the drug history requirement for Drug Court if: (1) the defendant has at least three prior positive drug test results in the Pretrial Services Agency record system in the last 12 months; or (2) the defendant has a verified history of drug treatment for substance abuse in the last 12 months with a drug treatment provider. This should occur in conjunction with a motion to certify a case from a regular criminal calendar to the Drug Court calendar, rather than at arraignment.

The following are procedures to certify *felony* cases:

**Certification from a Criminal Division Calendar:**

**STEP 1:** If the Court seeks to preliminarily certify a case to the Drug Court calendar because a defendant's current charge meets the Drug Court eligibility criteria, the calendar judge must call the Drug Court Unit (202-220-5505) and request a complete screening of the defendant's criminal and drug history to determine program eligibility (see Felony Eligibility Criteria). This can be done fairly quickly, often within thirty minutes. If Drug Court responds that the defendant meets preliminary eligibility criteria, the calendar judge may then *certify* the case to the Drug Court calendar by setting a status date. The Drug Court representative will coordinate a status date on Tuesday or Thursday within the next two weeks with the calendar judge, and the defendant will receive written notice of the status date. The calendar judge also will order the defendant to complete an immediate, same-day substance abuse assessment with the PSA Social Services and Assessment Center (202-220-5595). The Drug Court representative will notify the Drug Court courtroom clerk of the scheduled status date.

**If the case is pre-adjudication:** The certification process must be initiated within 30 days of arraignment or by the date of the first status hearing (whichever is later) or the USAO will oppose the motion.

**If the case is post-adjudication:** The certification process must be initiated after the calendar judge accepts the plea or after the defendant is found guilty at trial. The Court must, however, inquire on the record whether the defendant understands that (s)he will be sentenced by the presiding judge on the Drug Court calendar and not by the judge who presided over the trial or who accepted the guilty plea.

If the defendant is found to be *eligible* after receiving a substance abuse assessment, Drug Court will notify defense counsel.

**STEP 2:** At the status hearing, Drug Court program requirements will be explained to the defendant, and if (s)he elects to enter the program, (s)he will sign the Sanctions Contract, and the Drug Court judge will sign a new release order placing the defendant in Drug Court. Any conditions of release on prior release orders should be reviewed by the USAO and the Court for inclusion on the new release order. If the defendant decides not to enter into the Drug Court program at the status hearing, (s)he will be returned to the original criminal calendar.

**STEP 3:** If the defendant is found to be *ineligible* after reporting for the substance abuse assessment, at the status hearing Drug Court staff will notify the Drug Court judge, who will return the case to the calendar judge.