

DRUG COURT RIGHTS, RESPONSIBILITIES AND AGREEMENT

Drug Court is an innovative alternative to prosecution and punishment of drug offenders and criminal defendants suffering from chemical substance abuse. Drug Court participants are placed in a new setting for defendants which is therapeutic rather than confrontational. Drug Court participants submit to frequent and random drug testing, appear regularly before a judge and are closely monitored for program compliance.

Drug Court is a team approach between the treatment provider, probation office and Court to restructure the thinking of an offender, provide tools and treatment to prevent future drug use and provide an immediate sanction for violation of the Drug Court rules. A Drug Court participant will be expected to abstain from all drugs, including alcohol, except as prescribed by a licensed medical doctor and approved by the treatment provider and probation officer.

In a traditional Court setting, the judge would not discuss a case with others or review information about a party until presented in open Court. In Drug Court, a Drug Court participant's progress in treatment and the Drug Court Program will be made known to the Drug Court Judge outside the courtroom. The information provided may result in a sanction being imposed upon the participant or an acknowledgment being presented. If you are going to participate in Drug Court, you agree the Drug Court Judge can discuss your case with members of the Drug Court Team, including the probation officer and treatment provider.

Because of state and federal law requirements, treatment results and records related specifically to Drug Court are **confidential**. Your court file may have two parts, one part which is confidential and not open to the public, although available to the Drug Court Judge and Drug Court Team. The other part of the file will be open to the public and will contain the charging document, sentence or conditional discharge judgment, procedural orders and any probation violations instituted by the Clatsop County District Attorney's Office.

Drug Court sessions are open to the public. Treatment and performance on probation will be discussed in open court. Information that a participant hears during drug court about other participants **must be kept confidential**.

A Drug Court participant will be in the program a minimum of 52 weeks before graduating. To be eligible for graduation, a participant must be clean and sober for **six months** prior to graduation and has completed all other Drug Court requirements.

The attached release of information and waiver of rights must be completed:

**DRUG COURT RELEASE OF INFORMATION
AND WAIVER OF RIGHTS**

As a Drug Court participant, I agree and authorize the following:

1. I agree and authorize the Drug Court Judge to discuss my Drug Court case and my treatment progress with my probation officer or officers, my treatment providers and the Drug Court Team outside the courtroom and outside my presence.

2. I agree and acknowledge as part of the Drug Court Program I will not disclose to any other person, business or organization any treatment information I hear regarding another Drug Court participant during a Drug Court session.

3. I authorize my treatment providers to exchange my treatment information with the Court and probation officer. I further allow the Court and probation officer to disclose that treatment information to Drug Court team members and other medical, mental health and treatment providers.

4. I authorize the probation officer and Court to discuss my treatment progress and records during Drug Court sessions. I authorize the probation officer and treatment provider to disclose to the Drug Court Judge the results of any urinalysis and to have those results discussed in court.

5. I authorize my sentence judgment and conditional discharge order, even though it orders me to participate in Drug Court, to be placed in the court file which is open to the public.

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination or revocation of my release by me in writing. I agree I cannot participate in Drug Court unless all releases remain in effect. I further acknowledge that this release will expire upon my successful completion of probation and the Drug Court Program.

Drug Court Participant

Date

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLATSOP

STATE OF OREGON,)	
)	
Plaintiff,)	CASE NO. _____
vs.)	
)	
_____)	DRUG COURT PETITION AND
)	AGREEMENT
Defendant.)	

Defendant petitions for acceptance into Drug Court and agrees:

1. If a Grand Jury Indictment has not been filed, I give up the right to a preliminary hearing and/or Grand Jury Indictment and agree to proceed on the District Attorney's information in Circuit Court.
2. I understand criminal charges or civil actions arising out of the same episode or transaction may be severed and prosecuted or litigated separately. I give up my former jeopardy rights as to all criminal charges and civil actions arising out of the same act or transaction or same criminal episode as the drug-related charge(s).
3. I give up my rights to speedy trial.
4. I give up the following rights:
 - my right to counsel, including court appointed counsel, while participating in Drug Court.
 - my right to hearing on alleged violations while participating in Drug Court.
 - my right to hearing prior to termination from Drug Court.
 - my right to set aside record of the arrest pursuant to ORS 137.225.
5. I agree that during my participation in Drug Court, my probation officer or the District Attorney may at any time request imposition of sanctions and/or my termination from Drug Court for non-compliance. The Court may impose sanctions or terminate Drug Court without a hearing. If the Court orders termination from Drug Court, I understand I could be remanded into custody pending sentencing or show cause hearing to revoke probation.
6. I agree to apply for enrollment in the Oregon Health Plan within seven (7) days of acceptance into Drug Court **if I am eligible.**
7. I agree to successfully complete the diagnostic evaluation as ordered by the Court and to successfully complete the treatment program to the satisfaction of the treatment provider, probation officer and Court and pay all costs.

8. I agree to sign releases of information to give the Court, my probation officer and the treatment provider access to my evaluation and to give the Court and my probation officer access to treatment records.
9. I agree to abide by the conditions of probation ordered by the Court.
10. I agree I will not work as an undercover agent with any police agency on cases where I may come into contact with illegal drugs. Nothing in this agreement shall prevent me from voluntarily providing information to police regarding illegal drugs.
11. I agree that any violation of probation including but not limited to drug use, new criminal activity, non-compliance with treatment, failure to appear in court, failure to pay financial obligations or any failure to abide by the terms of this agreement may result in sanctions including but not limited to incarceration, modification of the treatment program or termination from Drug Court.
12. I agree to appear in court as directed by the Court or my probation officer.
13. I agree that the Court may extend probation to allow me to successfully complete my requirements.
14. I agree to keep the treatment provider, Clatsop Community Corrections and the Court advised of my residential and mailing addresses at all times during my participation in Drug Court.
15. I understand that I will be required to provide frequent and random urine, blood, breath or other samples as a condition of my participation in the drug court program. I agree that I will not take any over-the-counter medications, including cold, cough and any other over-the-counter medications without getting **prior** approval from my treatment provider and probation officer.
16. I agree that I cannot drink, use, possess or otherwise ingest alcohol, or any illegal controlled substances, nor may I associate with those who do, while I am a participant in the drug court program.
17. I am not currently on any treatment program that involves the use of prescription medications, including Methadone or Suboxone. I acknowledge that if I am currently on such a program, I must obtain authorization from the drug court probation officer and treatment provider to enter the drug court program. If I am on such a treatment program and I am allowed to enter the drug court program, I must be completely weaned off the medication within three months unless the drug court treatment provider, probation officer and Court allow an exception.
18. I agree to sign a Prescription Waiver Form that can be obtained by the probation officer or treatment provider that shall be submitted to the licensed physician prior to receiving any prescribed medication. I agree to provide copies of the signed form to the probation officer, treatment provider and Court.
19. I have read, signed and received a copy of the Clatsop County Drug Court prescription medication policy.

I have read and understand this petition and hereby knowingly and voluntarily give up the rights listed on this petition, petition the Court for acceptance into Drug Court, and enter into this agreement. Being duly sworn to tell the truth, I, the undersigned, do hereby swear that I am eligible to participate in the Clatsop County Drug Court Program and I meet the eligibility requirements listed in this agreement.

Defendant's Name (Print or Type)

Address

Telephone Number

Defendant's Signature (Required)

Date

Defense Attorney Signature

Date

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public for Oregon/Clerk of the Court

My commission expires: _____

THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF CLATSOP

STATE OF OREGON,)
 Plaintiff,)
 vs.) Case No. _____
 _____)
 Defendant.) DEFENDANT'S PETITION TO ENTER PLEA
 OF GUILTY NO CONTEST

1. My true name is _____. I also am known as _____. I am _____ years old. I have gone to school up to and including _____ grade. My physical and mental health is satisfactory. I am not under the influence of drugs or intoxicants.

2. I understand my right to hire a lawyer or have the Court appoint a lawyer to represent me.
 I choose to give up my right to a lawyer and, knowing the risks, I will represent myself.
 I am represented by a lawyer named: _____.

3. I told my lawyer all of the facts and circumstances known to me about the charges. My lawyer has answered, to my satisfaction, all questions I have concerning my case and this petition. As far as I know, my lawyer has advised me on the nature of each charge, on lesser included charges, and possible defenses. I am satisfied with the advice and help I have received from my lawyer.

4. I wish to plead Guilty/No Contest to the charge(s) of _____

5. I understand that I may plead Not Guilty to any charges. If I choose to plead Guilty or No Contest, I give up the following rights: (a) public and speedy trial by jury at which the state would have to prove my guilt beyond a reasonable doubt; (b) to see, hear, and cross-examine in open court all witnesses called to testify against me; (c) to use the subpoena power of the court to compel the production of evidence; (d) to have the assistance of a lawyer at all stages of the proceedings; (e) to take the witness stand at my sole option and if I do not take the witness stand, the right to have the jury told that this may not be held against me.

6. I understand that if I plead Guilty or No Contest, the Court may impose the same punishment as would be imposed if I had pled Not Guilty, stood trial, and been convicted. I further understand that I give up any defenses I may have, challenges or objections to evidence, and challenges to the accusatory instrument. I further understand the right to appeal my conviction is limited by a plea of Guilty or No Contest, and I may appeal only if I can make a colorable showing of error in the disposition of my case or a colorable claim of error in the proceeding.

7. I know that if I plead Guilty or No Contest, the maximum possible sentence is _____ years imprisonment and a fine of \$_____ with additional assessments. The minimum sentence, if applicable, is _____ years imprisonment. I also know my driver's license can cannot be suspended or revoked.

8. I further understand that any felony charge is likely to be subject to the sentencing guidelines. My lawyer has discussed the sentencing guidelines with me. I know that under this system, the sentencing judge ordinarily must impose a sentence from the guidelines range. If a case involves certain factors, the law permits the judge to impose a departure sentence either above or below the guidelines range. I understand that there is no guarantee that the sentence will be imposed within the guidelines range. I also understand that the Court can impose multiple sentences to run together (concurrently) or one after the other (consecutively). I understand my presumptive guidelines classification is:

Felony Count	Grid Block	Presumptive Sentence
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. I understand that I have the right to have a jury make factual findings that affect the length of my sentence. I waive my right to have a jury make factual findings on all sentencing issues. I further waive my right to require the state to prove sentencing issues beyond a reasonable doubt and waive my right to confrontation on all sentencing issues.

10. The district attorney has agreed to recommend: _____

This is is not a statutory plea agreement made pursuant to ORS 135.432(2).
 This is is not an early disposition agreement made pursuant to ORS 135.405(5).

11. I understand that the District Attorney, defendant and defense counsel may make recommendations to the Court, but the sentence is up to the Court to decide.

12. If I am presently on probation, parole or post-prison supervision, pleading Guilty or No Contest in this case may cause revocation of my probation, parole, or post-prison supervision in the other case(s) and any sentences could run consecutively.

13. In addition to the sentence imposed, I understand there may be other significant consequences including prohibition from leaving the state without first requesting transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

14. I understand that a plea of Guilty/No Contest to an offense involving domestic violence may result in a federal prohibition on my purchase, possession, receipt, shipment or transport of firearms and ammunition and may negatively affect my ability to serve in the US Armed Forces or to be employed in law enforcement.

15. I know that the law provides for an increase in the maximum sentence described in paragraph 7 to a maximum of 30 years with a 15 year minimum if I qualify as a dangerous offender. If my crime involved the use or threatened use of a firearm, I can receive a mandatory minimum sentence without parole or work release. If I am pleading Guilty or No Contest to a sex offense, I understand I may be required to register as a sex offender for the rest of my life.

16. I agree that if I withdraw or if a court later reverses, vacates, or sets aside my plea of "Guilty" or "No Contest in this case, the court will reinstate any charge(s) that were dismissed in return for my plea and the district attorney no longer will be bound by any promises made to me in exchange for my plea. If the court reinstates the charge(s), I waive the statute of limitations and any statutory or constitutional speedy trial or double jeopardy rights applicable to the dismissed charges.

17. I understand that if I am not a citizen of the United States, a criminal conviction is likely to cause my deportation from the United States, exclusion from admission to the United States, and/or denial of naturalization.

18. I plead Guilty/No Contest and the factual basis is that in Clatsop County, Oregon, I did the following (write in facts):

19. I HAVE READ THIS PETITION AND OFFER MY PLEA FREELY AND VOLUNTARILY WITH FULL UNDERSTANDING. I signed this plea petition on the _____ day of _____, 20_____.

Defendant's Signature

Defendant's Address

THE COURT ACCEPTS THIS GUILTY/NO CONTEST PLEA and finds that it is freely, knowingly and voluntarily made and there is a sufficient factual basis for it.

Date

Judge Signature

CERTIFICATE OF COUNSEL

The undersigned, as lawyer for defendant, hereby certifies:

1. I have read and fully explained to defendant the allegations contained in the charging instrument.
2. I have reviewed this plea petition with defendant. To the best of my knowledge, the statements made by the defendant in the plea petition are true.
3. I have explained to defendant the maximum penalty and sentencing guidelines, if any, applicable to each count. I have explained all of the rights defendant gives up by changing his/her plea to Guilty/No Contest. I believe defendant understands the charges and the effects of the petition to enter a plea of Guilty/No Contest.
4. In my opinion, the plea of Guilty/No Contest offered by defendant is voluntarily made and there is a factual basis for it.
5. I certify that in my opinion the defendant is mentally and physically competent and that he/she understands these proceedings. I have no reason to believe that defendant is presently under the influence of any drugs or intoxicants. (State exceptions on the record).

Date

Defense Attorney Signature

Bar No. _____