

James Valley DUI Court Handbook & Application



James Valley Drug & DUI Court
200 E. 4th Ave
Mitchell, SD 57301
605.995.8992

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Why DUI Court?

In DUI Court, I have a chance to stay in the community and receive treatment instead of going to prison.

What is DUI Court?

DUI Court participants go to treatment and to counseling as the court orders. By being in DUI Court, I can change my life and make it better.

If I agree to DUI Court, I will be sentenced to the program. During the time I am in DUI Court, I will have to come to court each week, go to treatment and do random testing. I will also go to support group meetings. DUI Court lasts at least 16 months.

You could be offered DUI Court if you are:

1. At least 18 years old
2. Facing felony charges
3. Agree to be in the program
4. Not a drug dealer, sex offender or violent offender
5. Drugs or alcohol use has made your life unmanageable
6. Willing to live within 24 miles of the Davison County Courthouse so that the team can supervise you

Who helps me get into DUI Court?

My attorney can help me decide if I should do DUI Court. They can help me fill out an application

What is a DUI Court Team and what happens at Court?

The DUI Court Team includes a judge, lawyers, probation officers, treatment people, program coordinator, and law enforcement. The Team will meet each week before court and talk about my case and how they can support me so I can succeed. The judge wants to know if I have been to all my treatment sessions, if I have had any positive tests, if I have been going to work, and what I am working on in treatment. When I get to court, the judge will ask me about my week and I will tell the judge what has been happening. If I do well, the judge might give me an incentive. For the things I have not done well, the judge will give me a sanction. Sometimes the judge will instruct me to attend more treatment. At first, I will attend court each week. While I am there, I will encourage my fellow participants by clapping at their progress. Unless I have been given permission ahead of time, I will stay until DUI Court is over.

How Should I dress and act in Court:

I agree to dress appropriately for court. If I am coming from or going to work I can wear work attire. I will not wear clothing with drug or alcohol related themes, t-shirts with offensive statements, holey jeans or low cut/see through tops or bottoms. I will act appropriately while at/in the court house and during the court sessions. The following actions will not be allowed:

1. Violence or threats of any kind
2. Use and/or possession of drugs
3. Hostile behavior

4. Possession of any type of weapons
5. Inappropriate sexual behavior

Confidentiality

When I go to court, the hearings are open to the public. To participate in DUI Court, I must sign a release that says the DUI Court team is able to share information about my progress during the team meetings. There is one exception to the rule pertaining to SDCL 26-8A-3 and 4, which requires reporting of any prior or current child neglect/abuse

What are my rights in DUI Court?

If I agree to participate in DUI Court, I am agreeing to waive my right to usual court proceedings, such as questioning disputing the legality of a search, seizure or traffic stop; a preliminary hearing; and a trial by jury or court. Your attorney can explain this in detail to you.

What are my goals while I am in DUI Court?

While I am in DUI Court I agree to work on individual goals with my Court Services Officer. I am also required to work on general goals. Those goals are to learn to be alcohol and/or drug free, learn better life coping skills, adjust to an alcohol/drug free lifestyle, begin a non-criminal pattern of living, gain employment skills, attend support groups, work on social skills, self-esteem and self-motivation, build a relapse prevention program with my Chemical Dependency treatment counselor, learn budgeting skills and make payments on money owed to the court and others, and work on using my time more effectively.

What is random alcohol and drug testing?

To make sure I stay sober, I will have to do random drug and alcohol testing, sometimes every day, sometimes more than once a day. If I fail a test, I may be taken into custody. My name will be checked with the South Dakota Prescription Drug Monitoring Program to make sure I am not abusing prescription medications.

Will I be eligible for a work permit?

I will only be allowed to obtain a work permit with the courts permission. I am expected to follow the rules and restrictions of the work permit. Failing to follow the rules and restrictions of my work permit may result in sanctions, such as:

- Loss of work permit
- Jail time
- New law violation
- Termination from the Program

*You are also required to participate in the 24/7 Program as required by law.

Phases of DUI Court

The Program consists of five (5) phases. Requirements of each phase are explained in detail below. You are required to submit a written request to the DUI Court Team in order to advance to the next

phase or graduate. Program length may vary but is no less than 16 months. Before graduating from the Program, you must complete a **Program Exit Survey**.

Phase 1

- Minimum of **60 days in the phase**
- Minimum **14 days of continuous sobriety**
- Attend Court each Thursday of the month
- Engage with treatment
- Comply with supervision
- Attend weekly office visits
- Comply with drug tests
- Maintain 10 p.m. curfew
- Comply with monthly home visits
- Address housing needs
- Schedule and complete (if possible) a physical exam
- Begin changing people, places and things
- Make consistent use of daily planner
- Complete phase advancement application to advance to next phase

Phase 2

- Minimum of **60 days in the phase**
- Minimum **30 days of continuous sobriety**
- Attend Court each Thursday of the month
- Engage with treatment
- Comply with supervision
- Attend weekly office visits
- Comply with drug tests
- Maintain 10 p.m. curfew
- Comply with monthly home visits
- Maintain Team approved housing
- Complete physical exam (if not completed in Phase 1)
- Begin attending self- help groups (ex. 12 step groups, SMART Recovery, Celebrate Recovery, etc.)
- Seek and obtain a sponsor/mentor for self-help groups
- Change people, places and things
- Make consistent use of daily planner
- Complete phase advancement application to advance to the next phase

Phase 3

- Minimum of **120 days in the phase**
- Minimum **60 days of continuous sobriety**
- Attend Court every other Thursday of the month
- Engage with treatment
- Comply with supervision

- Attend monthly office visits
- Comply with drug tests
- Maintain 11 p.m. curfew
- Comply with monthly home visits
- Maintain Team approved housing
- Maintain attendance at self-help groups (ex. 12 step groups, SMART Recovery, Celebrate Recovery, etc.)
- Maintain a sponsor/mentor for self-help groups
- Begin to engage in pro-social activity
- Begin job or vocational training, job search or school (if applicable)
- Demonstrate changing people, places and things
- Main consistent use of daily planner
- Complete phase advancement application to advance to the next phase

Phase 4

- Minimum of **120 days in the phase**
- Minimum **60 days of continuous sobriety**
- Attend Court every other Thursday of each month
- Engage with treatment
- Comply with supervision
- Attend monthly office visits
- Comply with drug tests
- Maintain 11 p.m. curfew
- Comply with monthly home visits
- Maintain Team approved housing
- Continue to address medical issues (if applicable)
- Maintain attendance at self-help groups (ex. 12 step groups, SMART Recovery, Celebrate Recovery, etc.)
- Maintain a sponsor/mentor for self-help groups
- Continue to engage in pro-social activity
- Maintain employment, vocational training, or school
- Address support services (parenting, family support, etc.)
- Demonstrate changing people, places and things
- Make consistent use of daily planner
- Complete phase advancement application to advance to the next phase

Phase 5- Continuing Care

- Minimum of **120 days in the phase**
- Minimum **60 days of continuous sobriety**
- Attend Court one designated Thursday of each month
- Engage with treatment
- Develop a continuing care plan with treatment
- Comply with supervision
- Attend monthly office visits

- Comply with drug tests
- Maintain 12:00 a.m. curfew
- Comply with monthly home visits
- Maintain Team approved housing
- Continue to address medical issues (if applicable)
- Maintain attendance at self-help groups (ex. 12 step groups, SMART Recovery, Celebrate Recovery, etc.)
- Maintain a sponsor/mentor for self-help groups
- Continue to engage in pro-social activity
- Maintain employment or schooling
- Continue to address support services (parenting, family support, etc.)
- Demonstrate changing people, places and things
- Make consistent use of daily planner
- Complete application for commencement
- Have participated in the program for at least 16 months
- Pay all fees on current Drug Court file(s)
- Pay all treatment related fees
- Complete Exit Survey

How do I complete DUI Court?

I am required to submit a written application to the DUI Court Team asking to graduate and explain all I have completed in the program. I will be in DUI Court for at least sixteen (16) months and will have to do all of the following to graduate.

Commencement Requirements

- Complete all 5 phases
- Participated in Program for at least 16 months
- Maintain change in people, places and things
- Pay all fees on current DUI Court file(s)
- Pay all treatment related fees
- Employed or attending school
- Approved housing
- Complete Exit Survey/Interview

Upon successfully completion of all 5 phases, meeting graduation requirements, and upon recommendation of the DUI Court Team, I will graduate from DUI Court. Graduation from DUI Court is recognized as a very important event. My loved ones and friends will be invited to join me at a special ceremony as the DUI Court Team congratulates me for successfully completing all phases of the DUI Court Program and achieving all the goals to establish a healthy lifestyle.

Sober Days

Based on proven days of sobriety, I will earn sober days throughout the Program. A sober day is defined as a 24-hour period with no confirmed alcohol or drug use and no confirmed attempt to tamper or avoid monitoring. I will be tested randomly through PBT's and UA's to ensure sobriety.

A **failed** PBT, UA, or failure to appear for any drug or alcohol testing (including 24/7) will result in:

- **loss of all sober days.** The sober days will begin at day one when I test negative again.
- other sanctions as determined by DUI Court team.

Missing or appearing late to 24/7 testing will result in the below sanctions:

- **First violation:** verbal warning and must appear at the next scheduled Court hearing to address the violation.
- **Second violation:** will be held in jail for 12 hours and may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.
- **Third violation:** will be held in jail for 24 hours and may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.
- **Fourth or more violations:** will be held in jail for 48 hours and I may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.

****May be required to provide a UA upon a late 24/7 testing****

Missing or appearing late for UA testing will result in the below sanctions:

- **First violation:** will be held in jail for 48 hours and I may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.
- **Second violation:** will be held in jail for 48 hours and I may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.
- **Third violation:** will be held in jail for 48 hours and I may lose all sober days. Must appear at the next scheduled Court hearing to address the violation.
- **Fourth or more violations:** will be held in jail for 48 hours and I may lose all sober days and all the days I've earned within the phase. I must appear at the next scheduled Court hearing to address the violation.

Failure to maintain contact (i.e. not answering the door during home visits) with the DUI Court Services Officer will be viewed as a non-documented day of sobriety and you may lose your sober days.

What are Incentives?

An Incentive is an acknowledgement by the DUI Court Team that I have reached a milestone or have completed a goal towards my life in recovery.

Some examples of expected behaviors and incentives

Incentives can include but are not limited to the following.

| Expected Behavior | Possible Incentive |
|----------------------------------|------------------------------------|
| ✓ Honesty | ✓ Applause |
| ✓ Accomplishing Goal | ✓ Acknowledgement from the Court |
| ✓ Positive Attitude | ✓ Gift card to local restaurant |
| ✓ Adjusting well to Program | ✓ Gas Card |
| ✓ Securing a sponsor | ✓ Movie Pass |
| ✓ Avoiding temptation to Relapse | ✓ Progression in the program/medal |
| ✓ Finding Employment | ✓ Approved travel |

What are Sanctions?

Sanctions are given for not following the program. Not following the rules of the program is a violation. The DUI Court Judge and Team will decide sanctions based on any violations.

Some examples of expected behaviors and incentives

Incentives can include but are not limited to the following.

| Expected Behavior | Possible Incentive |
|--|------------------------|
| ✓ Dishonesty | ✓ Verbal reprimand |
| ✓ Failure to maintain journal | ✓ Written letter |
| ✓ Failure to attend self-help support group meetings | ✓ Incarceration |
| ✓ Breaking curfew requirements | ✓ Loss of sober days |
| ✓ Reporting late to PBT or UA | ✓ House arrest |
| ✓ Testing positive on PBT or UA | ✓ No phase progression |

Therapeutic Adjustments

A therapeutic adjustment is a change in my treatment plan.

Some examples of Therapeutic Adjustments

Therapeutic adjustments can include but are not limited to the following:

- Increased self-help meetings
- Increased drug/alcohol testing
- Journaling
- Motivational interview exercises
- Evaluation of possible medications
- Increased court appearances

What happens if I fail to follow the rules of the program?

When I fail to show up, try and be honest and not follow the rules of the program, I can be terminated or fail DUI Court.

Some examples of reasons to terminate are:

Reasons to be terminated can include, but are not limited to the following:

- Concern for public safety
- Threat to the integrity of the program
- Available treatment options have been exhausted, and the participant is no longer working towards recovery
- Violating rules of the DUI Court
- Commission of a crime
- Failure to attend DUI Court hearings

- Abandonment of treatment program
- Evidence that participant is involved with drug dealing or driving while under the influence
- Evidence that participant is involved in any threatening, abusive, or violent verbal or physical behavior towards anyone
- Tampering with drug/alcohol screening tests
- Inability to pass required drug/alcohol screening tests for any reason
- Failure to make satisfactory progress
- Any other grounds that the DUI Court Team finds sufficient for termination

Process for Termination

1. Any member of the DUI Court Team makes a motion for termination
2. Court Services Officer will provide me with a written notice of the motion. The motion will explain the reasons for the termination.
3. The Judge will advise me of my due process rights, the potential penalty of termination for DUI Court, and the termination from the DUI Court may be used as grounds to revoke a suspended prison sentence.
4. I will be offered the chance to be represented by a lawyer for the DUI Court termination process. I can either hire my own lawyer or ask for court appointed counsel.
5. I will ask to either admit or deny the allegations that led to the motion to terminate.
6. If I deny allegations I will receive an immediate hearing where I can present any evidence or comments to the Court and Team.
7. If I admit or the Court find I committed the alleged violations, I will have a chance to address the Court and the Team as to whether I should be terminated from the program.
8. After the Court session, the Drug Court Team will meet to discuss termination.
9. The Judge, after consulting with the Team, will make the final decision as to whether I am terminated from the program.
10. If I am terminated, the Judge will advise me of my rights concerning potential probation revocation and appoint me an attorney.
11. If I am terminated, I will be required to participate in an exit interview.

Voluntary Removal

I may request to be removed from the DUI Court Program. Before I make a request, I should visit with an attorney. IF I have absconded or have run off from court services supervision while in the DUI Court Program, I will be considered to have voluntarily removed myself.

Fees

Court Related Fees

While I am in DUI Court, I must make payments for court fees. This can include the following;

- Child support
- Restitution
- Crime Victim Fund
- Public Defender fees
- Other

I will work with my probation officer to set up a payment plan.

Program Related Fees

I may be required to pay for testing, monitoring and treatment while in the program, which may include:

- UA's
- 24/7 Program,
- SCRAM
- Interlock
- Treatment
- Court fine



Application

Application Process

1. Read through the Participant Manual with defense attorney.
2. Fill out and submit the following application and Consent for Disclosure of Confidential Substance Abuse Treatment Information to the Problem-Solving Court Office in the Davison County Court House.
3. **Once application is received** by the Problem-Solving Court, you will be required to keep two scheduled appointments. These appointments must be completed before the Team will further consider your application.

The Court Services Office will call you to schedule a LSI-R (Risk/Needs Assessment)

You will need to contact Stepping Stones at (605)995-8180 to schedule a Treatment Needs Assessment

You will meet with the Drug Court Defense Attorney to review consent/waiver forms. He/She will schedule this meeting.

*Your attorney will receive written notification of acceptance or denial into the program.

4. If you are accepted into the program, you must complete the following forms, which are included in with Participant Handbook.
 - Problem-Solving Court Publicity Consent Form
 - Problem-Solving Court Treatment Program Basic Understanding, Waivers and Agreements
 - Problem-Solving Court Participant Manual Receipt and Acknowledgement



Unified Judicial System

Application to James Valley Drug/DUI Problem-Solving Court Program.

Date of Application: _____

Do you need disability accommodations? Yes No

If yes; please state request:

Will an interpreter be needed? Yes No If Yes; what language? _____

| | |
|---------------------------------|--|
| Name: | |
| Alias: | |
| Race: | |
| Sex: | |
| Date of Birth: | |
| Current Address: | |
| City: | |
| State: | |
| Zip Code: | |
| Other States you have lived in: | |
| How long at current address? | |
| Current Phone Number: | |

Are you an Armed Forces Veteran? Yes No

State ID #: _____

Valid Driver's License? Yes No # _____

Reliable Transportation? Yes No

Do you have children? Yes No If so how many? _____

Do you pay child support? Yes No How Much? \$ _____

Significant Other Full Name:

Date of Birth:

Do they have criminal court involvement? Yes No

If Yes – What?

Other Members in your home:

| Name (First, Middle, Last): | DOB: | Criminal Involvement | What? |
|-----------------------------|------|--|-------|
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Next of Kin Name: | | | |
| Relationship: | | | |
| Current Telephone: | | | |

Do you receive disability? Yes No How Much? _____

Are you working? Yes No

Employers Name:

| | |
|-------------------------|--|
| Employers Phone Number: | |
| Hourly Wage: | |
| Monthly Income: | |

Are you an Addict? Yes No

What is your Primary Drug of Choice?

| | |
|--|--|
| Primary Physician: | |
| Clinic Address: | |
| Clinic Phone: | |
| Do you have a Mental Health Diagnosis? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| List All Mental Health Diagnosis: | |
| Do you take Psychotropic Medications? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| List all Psychotropic Medications: | |
| Have you completed a Drug and Alcohol Evaluation? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| When: | Where: |
| LSI-R Completed? <input type="checkbox"/> Yes <input type="checkbox"/> No | When: |
| LSI-R Score: | |
| Highest Grade Completed: | <input type="checkbox"/> GED <input type="checkbox"/> High School Graduation |

| | |
|--------------------------|--|
| Skill or Trade: | |
| Certification or Degree: | |
| Currently on Probation: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Probation Officer Name: | |

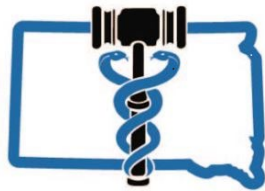
Do you currently have any matters pending through another court? Yes No

If Yes; what are the charges?

| | |
|---|--|
| Have you been sentenced to a Problem-Solving Court Before? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| When: | |
| Where: | |
| Have you been sentenced to the Penitentiary? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Date: | |

The defendant consents to the disclosure of Problem-Solving Court Application Information including a Risk/Needs Assessment, prior to entry of a plea, purposes of obtaining information useful for acceptance into the Problem-Solving Court Program.

| | |
|-----------------------------|--|
| Defense Attorney Name: | |
| Defense Attorney Signature: | |
| Defense Attorney Address: | |
| Defense Attorney Telephone: | |
| Date: | |
| Applicant Signature: | |
| Date: | |



—PROBLEM SOLVING—
COURTS
WORK
MAKING A DIFFERENCE

CONSENT FOR DISCLOSURE OF CONFIDENTIAL SUBSTANCE ABUSE TREATMENT INFORMATION

I, _____, having agreed to enroll and participate in the Problem-Solving Court Program, hereby acknowledge that treatment information normally is confidential under federal law. I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations, which governs the confidentiality of substance abuse patient (or client) records, and Part 164 of Title 45 of the CFR, which governs the confidentiality of mental and physical health records generally. I also understand that it is unlawful to violate these confidentiality requirements, but that both requirements permit me to voluntarily consent to permit disclosure of my health and substance abuse treatment information.

Therefore, I, _____, consent to allow the release of employment, medical, psychiatric, treatment, educational, mental health, or other documents and records that are deemed necessary for Drug Court purposes concerning Case No(s).

_____. I also consent to the disclosure of on-going communications about my diagnosis, prognosis, and compliance status, which includes, but is not limited to, the following:

- Assessment results pertaining to Problem-Solving Court eligibility, treatment needs, and supervision needs;
- Attendance at scheduled appointments;
- Attendance at support group meetings;
- Drug and alcohol test results, including efforts to defraud or invalidate drug or alcohol tests;
- Attainment of treatment plan goals, such as completion of a required counseling regimen;
- Evidence of symptom resolution, such as reductions in drug cravings or withdrawal symptoms;
- Evidence of treatment-related attitudinal improvements, such as increased insight or motivation for change;
- Attainment of Problem-Solving Court phase requirements, such as obtaining and maintaining employment or enrolling in an educational program;
- Compliance with electronic monitoring, home curfews, travel limitations, and geographic or association restrictions;
- Adherence to legally prescribed and authorized medically assisted treatments;
- Procurement of unauthorized prescriptions for addictive or intoxicating medications;
- Commission of or arrests for new offenses; and
- Menacing, threatening, or disruptive behavior with staff members, fellow Participants or other persons.

These communications may be disclosed among the following parties or agencies involved in the Problem-Solving Court Program: the Problem-Solving Court judge, the Problem-Solving Court team members, the employees engaged in the Problem-Solving Court operations and administration, court services officers in the Problem-Solving Court Program, treatment providers utilized by me during the Problem-Solving Court Program, the Problem-Solving Court

defense attorney, and/or other referring or treating agencies involved in the direct delivery of services through the Problem-Solving Court Program.

I understand that the purpose of and the need for this disclosure is to: inform the court and the other above-specified agencies of my eligibility and/or acceptability for substance abuse treatment services; to report on and adequately monitor my treatment, attendance, prognosis, and compliance with the terms and conditions of the program; to discuss and assess my status as a Participant in the Problem-Solving Court Program; and, to assess and comment on my progress in accordance with the Problem-Solving Court's reporting and monitoring criteria.

I agree to permit the disclosure of this confidential information only as necessary for, and pertinent to, hearings, and/or reports concerning the status of my participation and compliance with the conditions of my probation as defined by the Problem-Solving Court. I understand that information about my medical status, mental health and/or drug treatment status, my arrest history, my levels of compliance or non-compliance with the conditions of my Problem-Solving Court participation (including the results of urinalysis or other drug screening tools,) and other material information will be discussed and shared among members of the Problem-Solving Court Team.

I further understand that as an essential component of the Problem-Solving Court Program summary information about my compliance or non-compliance will be discussed in an **open and public courtroom**, including but not limited to, whether I have attended all meetings, treatment sessions, the results of urinalysis or other drug testing as required, and the disclosure of my compliance or noncompliance with the terms and conditions of the Program as defined by the Court. It is entirely possible that third parties will attend these court sessions and will hear these discussions. This process will require the redisclosure of confidential treatment information to individuals who have not been individually and specifically authorized to receive such information. Therefore, **I hereby specifically consent to any potential redisclosure to third persons who may be in attendance at any of my Problem-Solving Court sessions.**

I further understand that if I re-disclose confidential information of any other Participant to another party, I expose myself to legal liability for unauthorized disclosure of confidential information.

Recipients of this confidential information may re-disclose it only in connection with their official duties. **I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Problem-Solving Court for the case named above such as the discontinuation of all court-ordered supervision or probation upon my successful completion of the Problem-Solving Court requirements, or upon sentencing for violating the terms of my Problem-Solving Court involvement.**

Problem-Solving Court Participant

Date

Witness

Date



Publicity Consent /Release Form

I accept and approve the use, print, and copy of all media by the Problem-Solving Court. This includes all pictures or videos taken of me. My name may or may not be included for media, promotional, educational, and other purposes. I realize this coverage may use my picture, with or without further explanation. This could be alone or with other pictures, in a story, on a website, or on a cover of any or all public materials for Problem-Solving Court.

I release the Problem-Solving Court, its staff and employees, or anyone it authorizes, from all claims relating to or arising from the use of the consented items above.

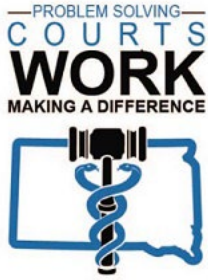
I am over eighteen years of age. I have read this agreement or have had it read and explained to me. I fully understand what it means. I have signed this on my own free will without force.

Name: _____
Address: _____
City: _____
State: _____
Zip Code: _____
Telephone: _____

This consent/release will remain in use and cannot be revoked by me until:

- Successful completion of the Problem-Solving Court
- Discharge from court-ordered supervision or probation
- Termination of my involvement with the Problem-Solving Court
- Sentencing for violating the terms of my Problem-Solving Court involvement

Signature: _____
Date: _____



**JAMES VALLEY DRUG/DUI PROBLEM-SOLVING COURT
TREATMENT PROGRAM BASIC UNDERSTANDING,
WAIVERS AND AGREEMENTS**

Defendant's Name

Address:

Date of Birth:

Phone Number(s):

I UNDERSTAND:

As a condition for participation in the Problem-Solving Court Treatment Program, I must give up certain statutory and/or constitutional rights. I hereby voluntarily agree and consent to give up the following statutory and/or constitutional rights upon my acceptance into the Problem-Solving Court Treatment Program enumerated below:

1. **LEGAL WAIVER:** I do hereby release and forever discharge the complaining witnesses, victim(s), the Problem-Solving Court Judge, the State's Attorney's Office, the Defense Attorney on the Problem-Solving Court Team, the Court Service Officer(s), the Problem-Solving Court Staff, and their respective heirs, successors, executors, administrators, and assigns from any and all claims of any kind or nature whatsoever, either in law or in equity, arising out of my arrest, participation in, or termination from, the Problem-Solving Court Program, and do expressly release and forever hold them harmless from any criminal or civil action which I may have a right to bring as a result of my arrest or participation in the Problem-Solving Court Program. (____)
2. **RELEASE OF INFORMATION:** I agree to complete a diagnostic evaluation for the development of my Drug Treatment Program as ordered by the Court. I hereby authorize release of all treatment information by the provider to the Court, Court Services, and the Problem-Solving Court Team. The Team and Court may consider any such information in deciding whether I remain in the Problem-Solving Court Treatment Program. (____)
3. **STATUS OF PROGRAM:** I have no legal right to participate in the Problem-Solving Court Treatment Program, and my acceptance and

participation is a privilege. I may be excluded or terminated from the Program at any time. (____)

4. **PROGRAM LENGTH:** The length of the Program varies, with the minimum time to complete all levels of programming being one (1) year. Average program length is 12 to 24 months, depending on my needs, abilities, and motivation to meet Program objectives. Upon successful completion of Problem-Solving Court, I may be ordered to complete the remainder of my probation period on standard probation. (____)
5. **GENERAL REQUIREMENTS:** I must attend all Problem-Solving Court sessions, attend treatment sessions, pass repeated drug screens, and address problems such as corrective thinking that contribute to my addiction. I must reduce risk factors which may include improving my family situation, bettering my employment status, increasing my educational level, moving from known drug distribution areas, etc. I may be required to pay restitution, fees for participation in the Program, fines, my Court Appointed Attorneys Fees, and any other related costs. I must make suitable progress towards controlling my addiction, and the Program will set individual requirements that I must meet. (____)
6. **INDIVIDUALIZED TREATMENT PLANS:** The Clinician I am assigned to will set my individual treatment plan requirements, which will then be reviewed by the Problem-Solving Court Team. The final decisions regarding my progress, compliance with Program requirements, and continued participation are in the Judge's sole discretion. I have no right to appeal the Court's decisions. (____)
7. **COMMUNITY SUPPORT GROUP MEETINGS:** You will be required to attend community support group meetings as part of your treatment plan. The Problem-Solving Court may provide secular group alternatives if you so choose. Your choice of community support group is voluntary, although you must choose one of the possible alternatives given by the Problem-Solving Court Team and your treatment provider. If you decide to change groups, your treatment provider and the Problem-Solving Court Team must first approve the change. Your attendance at group meetings will be recorded, and you will be subject to sanctions for not attending. (____)
8. **TERMINATION:** I can quit the Program at any time, but I must meet with the Problem-Solving Court Judge and Team to discuss my reasons for this decision and they may delay my withdrawal from the Program for a reasonable amount of time to make sure my decision is firm. If I voluntarily terminate myself from the Program, abscond from the Program, or am involuntarily terminated, I understand that I will be subject to revocation of my suspended sentence. (____)

9. FEES: I will have to pay for some components of the Program, such as:
- A. Drug Testing;
 - B. Ankle Bracelet Monitoring System;
 - C. Treatment/Counseling;
 - D. 24/7 Sobriety Program.

Money I pay into the Program is non-refundable. If I quit, am terminated from the Program, or if the Program ends for any reason, I will not get my money back. (____)

10. SANCTIONS: If I do not fully comply with the Program, the Judge may impose sanctions at his/her sole discretion. Additionally, my Court Service Officer(s) (CSO) may impose administrative sanctions. As a condition of my participation in the Problem-Solving Court Program, I do not have a right to an Evidentiary Hearing to contest the imposition of most sanctions. I do have the right to a Hearing to contest sanctions that may result in a loss of liberty, including jail sanctions. The Judge may also terminate me from the program. (____)

11. COMMISSION OF A CRIMINAL OFFENSE: If I commit an additional criminal offense, excluding minor traffic offenses, I may be terminated from the Program. (____)

12. COURT PROCEEDINGS: The Problem-Solving Court proceedings will be informal and performed in open Court. Clothing bearing drug or alcohol related themes, or promoting alcohol or drug use is not allowed. (____)

13. SEARCHES:

A. I will submit to random searches of my blood, breath or urine, person, possessions, vehicle or residence for controlled substances, alcohol, or any paraphernalia at the request of the Court Service Officer(s) (CSO). I am aware that law enforcement, under the direction of the CSO, will be included in the above random searches as part of my participation in the Program. (____)

B. I will be subject to random searches of my blood, breath or urine, person, possessions, vehicle or residence for controlled substances, alcohol or any paraphernalia by treatment provider staff or their designee while participating in the treatment program or while on treatment provider property. Failure to comply with these requirements may result in sanctions. (____)

14. **ATTORNEY:** Problem-Solving Court is a non-adversarial forum and, therefore, treatment and accountability is the primary concern. I understand that the attorney who represented me in the criminal case does not represent me in Problem-Solving Court, and the defense attorney who participates in the Problem-Solving Court is not acting as my attorney (even if the same attorney who represented me is also the defense attorney who participates in Problem-Solving Court). If the attorney who represents me in the criminal case is the same attorney who participates in the Problem-Solving Court, I waive any claim of conflict that might otherwise arise if that attorney is required to later represent me in court proceedings (for example, if I am terminated from the Problem-Solving Court Program). (____)
15. **DISCUSSIONS IN MY ABSENCE.** I understand and acknowledge that the members of the Problem-Solving Court Team, including the Defense Attorney and the Prosecuting Attorney, will be talking to the Problem-Solving Court Judge about me, my progress in the Program, and any problems that I might be having.
- The Team may also discuss with the Judge, at various times, sanctions or rewards, which I may receive because of my participation in the Program. I also understand and acknowledge that I will not be present for these discussions with the Judge. It has been explained to me these discussions with the Judge without me being present are necessary in order for me to receive the maximum benefit from the Program. I understand this and waive my presence at these meetings and discussions with the Problem-Solving Court Judge. (____)
16. **WAIVER OF PRIVACY:** Program officials may require me to provide very personal information. This may include but will not be limited to: my criminal record, financial and tax information, child support records, education and work history, family history, and medical and psychiatric information. I understand and agree that these things may be discussed in open Problem-Solving Court session, in treatment sessions, or in other settings related to participation in the Program. I agree to sign specific releases promptly to allow the gathering of this information. (____)
17. **DUTY TO NOTIFY:** I must obtain permission from my Court Service Officer(s) (CSO) prior to making any change in my residence or mailing address, any change, or disconnection of my phone number, or any change in my employment. I must also notify my Court Service Officer(s) (CSO) immediately after any law enforcement contact. (____)
18. **CONTACT WITH LAW ENFORCEMENT:** I must obey all laws, and notify my Court Service Officer(s) (CSO) of any criminal charges that are made against me, including any driving violations or minor offenses. My arrest

or conviction on other charges, or my failure to report other charges, may result in termination from the Program. (____)

19. NO ALCOHOL OR CONTROLLED SUBSTANCES: I understand that I cannot drink, possess, or otherwise ingest alcohol, nor may I associate with those who do, while I am a participant in the Problem-Solving Court Program. I also understand that I cannot use or possess marijuana, K2 or like substances, synthetic marijuana, scheduled controlled substances, over-the-counter drugs except as authorized herein, or any mind-altering substances, nor associate with those who do, while I am a participant in the Problem-Solving Court Program. (____)
20. MEDICATIONS: I understand that I will be required to provide frequent and random searches of my blood, breath or urine, person, possessions, vehicle or residence for controlled substances, alcohol, or any paraphernalia as a condition of my participation in the Problem-Solving Court Program. I agree that I will not take any medications, including cough, cold, and any other over-the-counter medications without prior approval from my treatment provider and my Court Service Officer(s) (CSO). I also agree to provide a complete list of my medications to my treatment provider and my Court Service Officer(s) (CSO). I also will not use or consume any food or beverage that contains poppy seeds while I am in the Problem-Solving Court Program. (____)
21. DRUG TESTING: I understand that results of my tests shall be admissible as evidence in the Problem-Solving Court. (____)
22. MEDICAL NEEDS: I, unless authorized by the Problem-Solving Court Team, will have only one doctor meeting my primary health needs. All appointments must be scheduled with that doctor or medical professional with the knowledge and permission of the Problem-Solving Court Team or my CSO, including emergent needs. (____)
23. ALCOHOL/DRUG TREATMENT AND COUNSELING: I will attend alcohol/drug treatment and participate in group, family, and/or individual counseling. (____)
24. HOUSING: I understand that stable housing is necessary for my recovery and must be approved by the Problem-Solving Court Team. I agree to comply with their recommendations and restrictions. (____)
25. EMPLOYMENT/EDUCATION/JOB TRAINING: I agree to maintain approved employment and/or attend any education or job training programs to which I am referred. (____)
26. GAMBLING: I will not gamble nor enter any gambling establishments

where the primary source of revenue is gaming funds without the written permission of my supervising officer. (____)

27. CURFEW: I agree to abide by a curfew as determined by the Problem-Solving Court Team. The curfew will have a beginning time when I am to be home and an ending time when I may leave. During my curfew, I may be on my property, as long as I am able to hear and get to the telephone. (____)
28. FREE, VOLUNTARY, KNOWING AGREEMENT: My participation in the Program requires that I waive very important rights. I have fully discussed my rights with the Defense Attorney on the Problem-Solving Court Team before agreeing to enter into the Program. I am satisfied that I understand how the Program will affect my rights. At the time of executing this document, my thinking is clear and I am not under the influence of any substance. The decision to waive my rights and enter the Program is mine alone and made of my own free will. I expressly agree to accept and abide by all the terms and conditions of the Problem-Solving Court Treatment Program as established by the Court and the Treatment Provider. (____)
29. NO REVOCATION OF ASSIGNMENT: I hereby consent to this case being assigned to the Problem-Solving Court Judge for all purposes, including sanctions. (____)
30. I hereby consent to the disclosure of Problem-Solving Court application information, including a Risk/Needs Assessment and a Treatment Needs Assessment, prior to entry of a plea, for purposes of obtaining information useful for acceptance into the Problem-Solving Court Program. (____)

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Problem-Solving Court such as the discontinuation of all court-ordered supervision or probation upon my successful completion of the Problem-Solving Court requirements, or upon sentencing for violating the terms of my Problem-Solving Court involvement.

Problem-Solving Court Participant

Date

Signature of Witness

Date



Problem-Solving Court Testing Agreement

While in the Problem-Solving Court program, the following criteria will be met:

- I will use my own urine or bodily fluids for all tests.
- Tests will be held on a frequent and random basis including weekends and holidays.
- I have the right to dispute test results at my own expense.
- I will be given a time and location to report for testing.
- I must have a working phone so I can be reached on at any time.
- If I am late or do not show up for a test, I can receive a sanction.
- If I do not give a urine sample or if I give a diluted sample it is a positive test.
- I may be sanctioned for being with or around other people who use drugs or alcohol.
- I will not use any products that can change a urine sample.
- I can be sanctioned for using substances that avoid detection on tests.
- I can be subject to instant testing if there is reason to suspect recent use.
- If over the counter medication is used, it may be a positive test. I can be sanctioned.
- It is my duty to inform my Doctor that I am in a Problem-Solving Court. I will need to provide my Court Services Officer with a Doctor's note. If I do not I may be sanctioned.
- This consent cannot be revoked until there has been a formal and effective termination with the Problem-Solving Court.

| | |
|------------------------------|--|
| Participant Signature | |
| Date | |
| Witness Name Printed: | |
| Witness Signature: | |
| Date: | |



—PROBLEM SOLVING—
COURTS
WORK
MAKING A DIFFERENCE

SOUTH DAKOTA PRESCRIPTION DRUG MONITORING PROGRAM

The South Dakota Prescription Drug Monitoring Program gathers data from dispensers who serve South Dakota residents and makes it available to prescribers and pharmacists to enable them to make better decisions when providing controlled substances to their patients. In addition, law enforcement can access this tool to reduce doctor-shopping, prescription forgery, and the diversion of prescription medications into illegitimate channels. All controlled substances in Schedules II – IV are tracked by the SD PDMP.

I, _____, having agreed to enroll and participate in the Drug Court Program, hereby acknowledge that treatment information normally is confidential under federal law. I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations (CFR), which governs the confidentiality of substance abuse patient (or client) records, and Part 164 of Title 45 of the CFR, which governs the confidentiality of mental and physical health records generally. I also understand that it is unlawful to violate these confidentiality requirements, but that both requirements permit me to voluntarily consent to permit disclosure of my health and substance abuse treatment information.

Therefore, I, _____ give consent to _____ (Court Services Officer and Team) to obtain my Prescription Drug Monitoring Program data from the South Dakota Pharmacy Board for the purpose of assisting the Drug Court with my case, specifically for supervision and treatment. All information obtained through the PDMP program will be kept confidential between the Drug Court Team. **I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Drug Court for the case named above such as the discontinuation of all court-ordered supervision or probation upon my successful completion of the Drug Court requirements, or upon sentencing for violating the terms of my Drug Court involvement.**

Signature _____

Date _____

Witness Signature _____

Date _____



P-SC Defense Attorney Language for Participant Handbooks

James Valley Drug/DUI Court Defense Attorney Cole Morgan will be your defense attorney the whole time you are in James Valley Drug/DUI Court Court. You have the right to get your own attorney if you want. Even though Attorney Cole Morgan is a member of the James Valley Drug/DUI Court Court Team, he/she is also **your attorney**. As your attorney, you will have the attorney-client privilege, which allows you to share privileged and confidential information with him/her which he/she cannot share with the Team unless you give him/her permission to do so.

James Valley Drug/DUI Court Attorney Cole Morgan's job is to help you understand your rights and the requirements of the James Valley Drug/DUI Court Court program. The James Valley Drug/DUI Court Court Judge makes all final decisions, but Attorney Cole Morgan will advocate for you to the Judge and the Team. Attorney Cole Morgan will defend your legal rights, make sure you get fair and equivalent treatment, and share your view on things like incentives and sanctions, phase advancement, and graduation or termination. Attorney Cole Morgan will represent you in evidentiary hearings if you want to question the facts used to decide on sanctions or terminations. Attorney Cole Morgan will also represent you if you are facing termination from James Valley Drug/DUI Court and if you are facing a Probation Violation after termination from James Valley Drug/DUI Court, unless you request a different attorney.

Attorney Cole Morgan will attend James Valley Drug/DUI Court sessions, and he/she can answer questions you might have during James Valley Drug/DUI Court. You should contact him/her **before** James Valley Drug/DUI Court if possible to talk about any issues that might come up. You can reach him/her at (605) 990-3700.