

# **20<sup>TH</sup> JUDICIAL DISTRICT DIVISION II EARLY DIVERSION PROGRAM**

**Johnston, Marshall, and Murray Counties**



## **PARTICIPANT HANDBOOK**

**FY26**

**EARLY DIVERSION PROGRAM**  
**20<sup>TH</sup> DISTRICT**  
**DIVISION II**  
*(Johnston, Marshall & Murray County)*

**Monthly Court Dockets**

**MARSHALL COUNTY EARLY DIVERSION PROGRAM**

<b>TIME</b>	<b>DAY</b>	<b>LOCATION</b>	<b>FREQUENCY</b>
11:00 A.M.	WEDNESDAY	MARSHALL COUNTY COURTHOUSE	1 X MONTHLY

**JOHNSTON COUNTY EARLY DIVERSION PROGRAM**

<b>TIME</b>	<b>DAY</b>	<b>LOCATION</b>	<b>FREQUENCY</b>
10:30 A.M.	THURSDAY	JOHNSTON COUNTY COURTHOUSE	1 X MONTHLY

**MURRAY COUNTY EARLY DIVERSION PROGRAM**

<b>TIME</b>	<b>DAY</b>	<b>LOCATION</b>	<b>FREQUENCY</b>
11:00 A.M.	FRIDAY	MURRAY COUNTY COURTHOUSE	1 X MONTHLY

## Why Early Diversion?

The Early Diversion Program has been developed with the hope that it will help participants avoid further offenses, charges, and further involvement in the criminal justice system. This is achieved through assessment of needs, individualized goals for each participant, connection to services as needed, and any other requirements as needed. The Early Diversion Program can be helpful to participants. However, the final responsibility is yours. You must be motivated to comply with requirements designed specifically for you by this program to benefit you.

**There are 4 models of Early Diversion, and each are a little different.**

### Here are some general things you can expect:

- Signing a Consent for Release of Confidential or Personal Information Form allowing the Early Diversion Program Coordinator, Judge, District Attorney, Defense Attorney, and Treatment Providers to discuss/exchange information.
- Signing a Consent for Release of Confidential or Personal Information Form for other persons/entities to discuss information as needed, that will provide information pertinent to your involvement with programs as well as compliance/non-compliance in the Early Diversion Program.
- Assessment of your needs by a Treatment Provider
- ***Individualized goals and requirements*** based on the needs identified through screenings.
- Connection to services as needed
- Requirement to keep Early Diversion Program Coordinator and Treatment Providers up to date with current contact information.
- Monthly fees for individuals in Model 3 (\$50), and Model 4 (\$75)
- Rules on doctor/dentist appointments, drugs/alcohol, medical marijuana, and/or over the counter drugs.
- Ongoing contact between Coordinator, Treatment Providers, and presiding Judge as needed regarding your compliance/non-compliance to your individualized program requirements.
- Ability to file a grievance
- Possible benefits or incentives when you comply to the program
- Possible negative consequences or sanctions for non-compliance in the program

### Participant Costs

- Participant Early Diversion Program Fee Amount
  - Model 1 (no cost)
  - Model 2 (no cost)
  - Model 3 (\$50 per month)
  - Model 4 (\$75 per month)

### **How/When to Pay Program Fees**

- This must be paid with a cashier's check or money order.
- Receipt will be provided.
- Fees are due by the day of the Court Docket. It is strongly encouraged that participants pay their Early Diversion Program fees by one of the following timelines:
  1. The beginning of the month,
  2. Their first supervision appointment for the month,
  3. At least one week before court so that their compliance in this area can be documented before the court documents are prepared.
  4. Non-payment, by the day of the Court Docket, can be documented in the docket sheets for the same month in which payment is due. However, even if it is not documented in the docket sheet for the current month, it can be reflected in the following month. Example: If participant fails to pay by the day of the court docket, then fails to pay by the last business day of the same month, the docket sheet for the following month may reflect the non-payment/late payment whether the participant pays extra to catch up in the future.
- Other Fee Related Information
  - Chemical Testing – included in the monthly fee stated above. ***(\$75.00 per test if disputed then forwarded to test site and test sample is found to be positive.)***
  - Supervision Fees are included in the monthly fee stated above
  - User fee is included in the monthly fee
- Other Costs

While Model 1 and II do not require a fee to be paid to the 20<sup>th</sup> District Division II Early Diversion Program, participants may still be required to pay fees for services being received from treatment providers or other entities.

### **Model 1: Deferred Prosecution – Social/Clinical Services, No Supervision**

Under this model the defendant has experienced arrest, been arraigned on the facts of the case and the District Attorney has screened the case but is choosing to delay filing of the charge based on the defendant's successful completion of conditions. The defendant has not yet been formally charged. *Noncompliance of the defendant under this model would lead to the District Attorney formally filing the criminal charge and pursuing other case outcomes.*

### **Model 2: Pretrial Diversion**

Under this model the defendant has experienced arrest but has not yet been formally charged. The Judge could determine the Early Diversion Program is an appropriate condition for release. If the participant successfully engages in services, follows their individualized treatment plan, and commits no new crimes, the prosecutor may decline to file charges. Successful participation may also lead to continued involvement in a Early Diversion model post plea.

### **Model 3: Deferred Prosecution – Social/Clinical Services, Supervision Services**

Under this model the defendant has experienced arrest, been arraigned on the facts of the case and the District Attorney has screened the case but is choosing to delay filing of the charge based on the defendant's successful completion of conditions. The defendant has not yet been formally charged. *Noncompliance of the defendant under this slightly more intense model would lead to the District Attorney formally filing the criminal charge and pursuing other case outcomes.*

### **Model 4: Diversion Court**

Under this model the defendant has experienced arrest, been arraigned on the facts of the case and the District Attorney has screened the case and is choosing to file the charge. The defendant now can lessen their sentence and/or avoid serving time in county jail by successfully completing the program.

This should not be carried out as a treatment court with structured phases. Each defendant should continue to be screened, assessed, and linked to services based on their own unique needs. To establish progress markers or benchmarks, in lieu of phases, the Court may recognize the defendants work toward individualized goals every 30 days and establish incentives when continued progress is made toward a goal or a goal is achieved.

This step in diversion can also be utilized if the defendant failed to comply with the deferred prosecution program. The increased reporting and accountability to the Court in this model will aid to reinforce behavior change for those who could not comply in a less restrictive model.

*Noncompliance of the defendant under this model would lead to the District Attorney requesting sentencing per the previously negotiated plea.*

## STAFFING PROCEDURES

The Early Diversion Court Staffing docket is scheduled to be held monthly with increased frequency being at the Team's discretion. The location of the Early Diversion Court staffing shall be in the Johnston/Marshall/Murray County District Courthouse one-half hour before each scheduled Court.

Prior to each court docket, the team shall meet to discuss each participant's individual progress, make determinations regarding rewards or sanctions, and discuss new referral information. In the event there is disagreements between team members on the reward or sanction, the policy manual will be reviewed and if there is not a defined reward or sanction, the team will vote for or against the recommended reward or sanction. Ultimately the overall decision will rest with the Judge.

The staffing requirements for regular team attendance at staffing are the Associate Judge, Assistant District Attorney, Treatment Counselor, and Coordinator (Coordinator). Compliance Officers may attend staffing.

**Staffing will be conducted thirty (30) minutes prior to the court docket time.**

## DOCKET PROCEDURES

The Alternative Court docket will be held monthly with increased frequency being at the Team's discretion.

Prior to each court docket, the team shall meet to discuss each participant's individual progress. Each team member will be given the opportunity to discuss treatment support service needs, make determinations regarding incentives, sanctions, and therapeutic adjustments and discuss new referral information. During staffing implementation, determinations will be based on six questions.

- (1) Who are they in terms of risk/need?
- (2) What phase are they currently working on?
- (3) Why did this happen? What are the circumstances?
- (4) Which behavior(s) are we responding to- proximal or distal?
- (5) What is the response choice or magnitude?
- (6) How do we deliver and explain the response?

Should the Alternative Court Judge not be available for court, court will be continued. In the event there is disagreements between team members, the policy manual will be reviewed and if there is not a defined answer, the team will vote for or against the recommended. Ultimately the overall decision will rest with the Judge.

The staffing requirements for regular team attendance of court dockets are the Associate Judge, Assistant District Attorney, Defense Attorney if available, Treatment Counselor, and Coordinator (Coordinator). Compliance Officers may attend dockets.

## STATUS HEARING

Frequent court hearings establish and reinforce the treatment court's policies, ensure participants' needs are being met, and provide supervision and accountability of each participant. Participants shall ordinarily appear in front of the same judge throughout their enrollment in the treatment court program. The location of the Alternative Court docket shall be in the Johnston/Marshall/Murray County District Courthouse. Contact your coordinator for times and dates.

**Sanctions:** Sanctions can be utilized under the model but should reflect a consistent effort for the defendant to remain engaged in services and not have an inadvertent negative impact. Below are only examples of what could be imposed. It is not an all inclusive list.

Examples of possible sanctions:

- Community Service or give back hours.
- Observing a felony treatment court docket
- Increased reporting to liaison
- Placement into an increased reporting program (Reconnect)
- Flash jail sentences to occur in 24-, 48-, or 72-hour increments. Treatment adjustments including increased drug/alcohol screening should not be utilized as sanctions but rather viewed as meeting defendants assessed needs.
- Rehab/Sober Living environment

### **Incentives:**

Incentives are utilized to reward positive behavioral changes and compliance with program directives. Below is a list of possible incentives but the coordinator has the latitude to add additional incentives as deemed appropriate. These are not all inclusive.

Examples of possible incentives:

- Earned time off the end of the program.
- Financial incentives
- Drawings
- Treatment T-Shirts

## **Chemical Test/Drug Testing Policy and Procedures**

Scheduling – Drug/alcohol testing requirements will be based on evidence obtained from treatment screening. Scheduling may vary case by case.

Participants will be tested for drugs/alcohol Drug/alcohol testing requirements based on evidence obtained from treatment screening. Due to this being a highly individualized program, testing needs may vary over time depending on the need of each individual. Individuals screening positive will move on to further assessment and other appropriate individualized services.

Participants may be tested through their urine, saliva, breath, hair, or any other methods deemed necessary by the Early Diversion Program Team. Samples may be gathered by the Coordinator, Compliance Office, private facility, or a person designated by the Early Diversion Program Coordinator. For individuals that have been identified as needing drug testing through their initial or ongoing screenings, these tests may be performed at any time during the Participant's participation in the Early Diversion Program. These tests can and will be sent to a designated Lab and tested for adulterants and confirmations, if necessary, at the expense of participant. All medications taken by the Participant, whether prescription or not, must be given to the appropriate personnel at the time the specimen is taken. Any member of the Early Diversion Program team may request a participant be tested for alcohol/drugs at any time if it is part of the individualized plan for that participant.

### **WHEN TESTING URINE FOR DRUGS OF ABUSE:**

- 1.) No articles in the bathroom other than the test material and Participant. No coats, purses, bags, oversized sweatshirts, etc. .
- 2.) All collections must be observed by same sex tester.
- 3.) If tester suspects any tampering/adulterating, tester may pat down Participant or take other means to verify that the participant is not trying to deceive the program.
- 4.) Follow step-by-step instructions of test kit utilized and/or direction of tester throughout process.
- 5.) Sample must be appropriate temperature and color.
- 6.) Do not flush sample until you have the negative results completely.
- 7.) Participant is not to flush the toilet.
- 8.) Participant should not leave the facility until the test is complete.



### **IF SAMPLE IS PRESUMPTIVE POSITIVE**

- 1.) Confront participant on his/her use of drugs. If participant denies use, sample will be delivered to a lab and results obtained, within a reasonable timeframe if test sample is found to be positive by lab the participant will owe a fee of approximately \$75.00.
- 2.) Fill out chain of custody paperwork for appropriate lab.
- 3.) Place sample in appropriate container if initial cup cannot be sealed thoroughly.
- 4.) If sample cannot be delivered to the lab within 8 hours, sample must be frozen until delivery.
- 5.) Deliver sample to lab and ensure chain of custody is completed, mailing is authorized.

### **WHEN TESTING FOR ALCOHOL BY ORAL SWAB**

- 1.) Participant must not eat, drink, or smoke for 15 minutes prior to giving a sample. *(It is the Participant's responsibility to tell the tester if he/she has done so.)*
- 2.) Follow step-by-step instructions of test kit.
- 3.) If test indicates positive, sanctions will be applied.
- 4.) A positive result will be sanctioned in the same manner as urine testing.

### **WHEN TESTING HAIR FOR DRUGS**

Early Diversion Program Coordinator, or other trained contractors, can perform hair testing when approved by the Program Coordinator. This will be based on the participants individualized needs regarding monitoring and/or performed at the order of Early Diversion Program Judge.

## **REGULATIONS ON DOCTOR/DENTIST VISITS**

**The following requirements may vary on a case-by-case basis. Participants will adhere to these guidelines, unless noted as unnecessary by the Early Diversion Program Coordinator, as part of the individualized plan of the participant. Any participant that is required to complete drug tests must comply with these regulations.**

- All Doctor and Dentist visits **MUST** be documented with the coordinator prior to the appointment.
- All information regarding participant's addiction to Alcohol or Drugs **MUST** be presented to the Doctor/Dentist at time of visit.
- All Participants must obtain a Doctor/Medication Form from the Coordinator and present this form to the doctor/dentist at the time of the visit.
- It will be the Participant's responsibility to ask that any prescriptions given by the doctor/dentist be a non-narcotic or non-habit-forming drug.
- All forms and information given to the Participant by a Doctor/Dentist must be reviewed by the coordinator and copies made if necessary.

## **REGULATIONS ON MEDICATIONS**

**The following requirements may vary on a case-by-case basis. Participants will adhere to these guidelines, unless noted as unnecessary by the Early Diversion Program Coordinator, as part of the individualized plan of the participant. Any participant that is required to complete drug tests must comply with these regulations.**

- All Participants must notify the coordinator in the event of any prescription being given to them.
- Any use of narcotic or habit-forming drugs must be documented by the Participant and that documentation must be turned in to the coordinator.
- Any unused medication given by a doctor/dentist must be immediately turned into the coordinator upon discontinuance by the Participant.
- The Participant may use any over-the-counter medication on the Approved Medication List if they have minor pain, sinus congestion, or other related symptoms. Use of the medication must be brought to the attention of the Coordinator at the Participant's next office visit. Medications on the Prohibited Medication list may not be taken. If Prohibited Medication is taken, a sanction can be instilled. Pseudoephedrine medication WILL NOT use.
- No Participant may use or possess another person's prescription medication at any time, regardless of the type of medication.

**ANY DEVIATION OF THESE REGULATIONS BY A PARTICIPANT  
MAY RESULT IN IMMEDIATE SANCTIONS.**

## **MEDICAL MARIJUANA POLICY STATEMENT**

With the provided references as guidance, the 20<sup>th</sup> District Division II Early Diversion Program of Johnston, Marshall, and Murray Counties finds a rational basis for believing cannabis use could threaten public safety and inhibit a participant's ability to successfully address any possible substance use disorder, mental illness, or ongoing screenings utilized as part of the Early Diversion Program individualized plans. Moreover, permitting medical marijuana use for participants would pose significant difficulties for Treatment Court supervision and compliance monitoring. Finally, use of medical marijuana for participants would be contrary to overall goals of the 20<sup>th</sup> District Division II Treatment Courts as they assist in addressing possible substance abuse issues, mental health diagnoses, conducting ongoing screenings, and could limit ability for participant to meet certain goals. As such, the 20<sup>th</sup> District Division II Early Diversion Program for Johnston, Marshall, and Murray Counties finds that the possession or use of medical marijuana by any participant shall be prohibited during participation in the program.

## **PARTICIPATION, COMPLIANCE/NON-COMPLIANCE, AND TERMINATION INFORMATION**

**Model 1:** Under this model the defendant has experienced arrest, been arraigned on the facts of the case and the District Attorney has screened the case but is choosing to delay filing of the charge based on the defendant's successful completion of conditions. *The defendant has not yet been formally charged. Noncompliance of the defendant under this model would lead to the District Attorney formally filing the criminal charge and pursuing other case outcomes.*

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We hope this handbook has been helpful to you and answered any questions you may have. If you have any additional questions or concerns about the Early Diversion Program, please feel free to ask your Coordinator or Judge. Important Early Diversion Program telephone numbers will be provided to you by the coordinator during your initial Orientation.

**GOOD LUCK!**