

Rules and Protocol for Selection and Entry into the Madison County Adult Drug Court  
*Fifth revision (October 2019)*

Mission Statement

*With some exceptions to be discussed herein, the Adult Drug Court program (known as ADC) is designed to offer an opportunity and help in the form of treatment, counseling, drug screening and life changes for the betterment of its clients, in lieu of criminal prosecution, for those charged with a felony (or felonies) offense, who have a drug or substance abuse addiction and who volunteer for admission and who are accepted for enrollment.*

General background

1. The local Adult Drug Court was initiated in 2001 and held its first court proceeding in 2003.
2. The program is designed to last two calendar years.
3. Missteps and accompanying sanctions could make the program take longer to complete.
4. The ADC staff can recommend removal from the program for non-compliance of the program's rules and/or any violation of local, state or federal law (conviction unnecessary).
5. The ADC judge is the ultimate decision maker on removal.
6. Failure to complete all the requirements of ADC is deemed a failure on the client's part.
7. It is the sincere hope that all who request entry in the ADC program and treatment (and take the requirements seriously) will be successful and become drug-free, as the community-as-a-whole will benefit if the client becomes clean and sober and refrains from future criminal endeavors necessitated by continued drug usage.

Rules for entry

1. A potential ADC client must have been arrested for a felony offense (offenses included in the *precautionary warning document will be a disqualifier per se*) and be awaiting prosecution of his/her charge.
2. The potential client's attorney, after careful and thoughtful consultation with the client, must request ADC consideration for the client from the assigned prosecutor (ADA) to the client's felony charge.
3. Once approved by the assigned ADA, the defendant/potential client should go immediately to the office of alternative sentencing (OAS, aka county probation) for the ADC pre-screen. If the defendant/client is incarcerated, defense counsel should request an assessment by the jail.
4. Upon notice from OAS to the DA's office that defendant/client meets the minimum standards of ADC, a plea offer will be extended to opposing counsel.
5. Upon acceptance of the plea offer, the defendant/client will execute a notarized, precautionary warning and a written confession as to his/her felony charge and return both to the ADA for his file.
6. A plea is then taken by a circuit judge or any other court of record, and sentencing is deferred so the client may enroll in ADC.
7. Upon successful completion of ADC a Nolle Prosequi will be filed the DA's office.

Initial considerations by ADA

1. Upon ADC request by opposing counsel, the ADA should review the precautionary warning document for guidance.

2. See if charge runs afoul of the precluded charges.
3. If the charge is a controlled substance charge, look to the amount or weight of the drugs.
4. If the charge is a non-controlled substance charge, ensure it is not a crime of violence.
5. If the charge is a property crime, look at the damage or property loss of the victim.
6. Review the Defendant's criminal history, scrutinizing any 'crimes of violence' arrests in the past and the number of felony convictions.
7. Call the investigating officer and learn what police intelligence reveals about any continuing criminal enterprises involving the Defendant is ongoing.
8. Remind the Defendant's counsel that ADC is a therapeutic court and as such, any statement made by Defendant/client at any stage of ADC (including the start) that he/she does not have a drug problem will initiate termination from ADC and move the case to immediate sentencing (not back to circuit court for new negotiations).
9. The most appropriate time to apply for ADC is as close as possible to the time of arrest. The longer that a defendant waits to begin treatment, the less likely they will be successful.

#### Post-Approval by the ADA/DAR

1. Once approved defense counsel should send the defendant to OAS for pre-screen.
2. A plea offer will be extended to the Defendant; all offers will have a mandatory split with county jail incarceration required and a following probationary period (in the event that client is unsuccessfully in completing ADC).
3. Before any plea entering ADC is taken, the Defendant/client will execute a notarized precautionary warning document and a signed confession to the ADA, said documents to remain in the ADA file along with a photocopy of the plea agreement.

#### Precautionary Warning (see attachment) and Confession (a must)

#### The plea

1. To a felony charge either by information or indictment, with a split sentence authorized
2. Sentencing is deferred until some date after ADC consideration
3. Case transferred to ADC
4. ADC judge will assume all sentencing and sanctioning responsibilities (if needed) after transfer

#### ADC requirements

1. Timely court appearances, whenever scheduled
2. Random drug screens as per color-coded phone calls dictate
3. Treatment, as prescribed per need [no treatment, no ADC participation]
4. Completion of graduated stages, dictated by the Court and treatment providers
5. Abstinence for all drugs (not prescribed and not pre-approved) and alcohol
6. Honesty with all staff of ADC at all times
7. Payment of court-ordered monies
8. Seek and maintain employment
9. Other dictates by the Court and treatment providers

10. A graduated punishment scale (as determined by the ADC staff and approved by the Court to include but not limited to jail time or community service) for missteps until such time that ADC termination is required

#### ADC graduation

1. All ADC requirements met, including payment of all fees, fines, costs and restitution
2. NP is filed and conviction set aside
3. Expungement will be recommended.

#### Grounds for ADC termination, and/or sanctions

1. Missing or continual tardiness to court
2. Missing, diluted, otherwise adulterated, or positive drug screens
3. Missing counseling and/or treatment
4. Non-compliance of any court order or treatment requirement
5. Any sign of disrespect by client to any member of ADC staff, the Court, court personnel, any treatment provider or staff member of same, or any member of law enforcement (disrespect to be determined by the effected individual)
6. Expulsion from treatment (no treatment, no ADC participation)
7. Failure to seek and maintain gainful employment (unless authorized by the Court)
8. Any non-approved absence from any part of ADC for 30 days or longer
9. Any arrest for a new felony charge, any drug arrest, or a DUI
10. After a re-instatement to ADC for any reason, the violation of any ADC rule, ADC requirement or law
11. Any other court-approved justifiable reason, with notice

#### Sanctions

1. County jail time which may be immediate.
2. Re-start any phase to any part, to include the beginning
3. Inpatient treatment, if approved and ordered
4. Any other court-approved or treatment restriction deemed necessary
5. **Multiple** sanctions (case by case determination) by a client will necessitate a *Motion to Remove and Terminate client from ADC*

#### ADC termination

1. A probable cause hearing had, if necessary, wherein client may be accompanied by legal counsel
2. Removed from ADC rolls, original sentence imposed
3. Conviction stands
4. Incarceration to begin immediately