

20th Judicial Circuit Court	RECOVERY COURT WAIVER OF RIGHTS & PARTICIPANT AGREEMENT	Ottawa County, Michigan
---	--	------------------------------------

Participant's Name: _____

Defense Attorney: _____

Sentencing Judge: _____

Case Number: _____ Charge(s): _____

Case Number: _____ Charge(s): _____

Case Number: _____ Charge(s): _____

Case Number: _____ Charge(s): _____

SECTION 1: PROSECUTOR'S AGREEMENT

I understand that I have been referred to the Ottawa County Recovery Court (OCRC) and that (1) if approved by the OCRC team, and (2) my sentencing judge agrees to sentence me into the OCRC, then participation in the OCRC will be added as a term of my sentence and probation conditions. If this occurs, and I successfully complete the OCRC, the Ottawa County Prosecutor's Office has agreed that:

- No Charge Reduction will occur.
- Possession of Marijuana 2nd *will be reduced to Possession of Marijuana.*
- Possession of Cocaine *will be reduced to Attempted Possession of Cocaine.*
- Delivery of Marijuana *will be reduced to Attempted Delivery of Marijuana.*
- Delivery of Cocaine *will be reduced to Attempted Delivery of Cocaine.*
- Other: _____

This agreement is effectuated only if I am sentenced into the OCRC.

20th Judicial Circuit Court	RECOVERY COURT WAIVER OF RIGHTS & PARTICIPANT AGREEMENT	Ottawa County, Michigan
---	--	------------------------------------

SECTION 2: FINDINGS OF THE COURT

<input type="checkbox"/>	<p>Defendant is starting the Ottawa County Recovery Court pre-sentence (while on bond). <i>Defense Attorney and defendant must review and complete pages 1, 3, & 5-7 of this agreement and return the completed original agreement to the recovery court.</i></p>
<input type="checkbox"/>	<p>Defendant is starting the Ottawa County Recovery Court post-sentence. <i>Defense Attorney and defendant must review and complete pages 1, & 4-7 of this agreement and return the completed original agreement to the recovery court.</i></p>

The 20th Circuit Court finds the following criteria to be satisfied by the defendant seeking referral and admission into the Ottawa County Recovery Court (OCRC).

1. The defendant was knowingly referred to the OCRC and has an interest in participating in the OCRC as a term of his or her probation.
2. The defendant has been found legally eligible to participate in the OCRC by the Ottawa County Prosecutor’s Office, pursuant to MCL 600.1064(3)(a).
3. The defendant has met with OCRC staff to discuss the requirements of the OCRC and has completed an intake screening with OCRC staff to gather demographic information, as required by the Michigan State Court Administrative Office, and to complete a preliminary screening for substance use disorders, pursuant to MCL 600.1064(3)(c) and MCL 600.1078(1)-(7).
4. The defendant has met with a licensed therapist and completed a comprehensive bio/psycho/social clinical assessment evaluating the defendant for co-occurring mental health and substance use disorders. Diagnoses have been made according to criteria in the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5) and an appropriate level of treatment has been determined according to the American Society of Addiction Medicine (ASAM) Criteria, pursuant to MCL 600.1064(3)(c).

Based on the results of this clinical assessment, the defendant has either a substance use disorder or a co-occurring mental health and substance use disorder and therefore qualifies for substance use disorder treatment at the level of intensive outpatient or greater, pursuant to OCRC Policy 2.02.

5. The defendant has voluntarily pled guilty to his or her criminal charge(s) and elected to waive his or her right to trial, pursuant to MCL 600.1068(1)(b)-(c).

SECTION 3: ENTRY INTO THE OTTAWA COUNTY RECOVERY COURT

Section A: Starting the Ottawa County Recovery Court pre-sentence (while on bond):

I understand I have been approved to participate in the Ottawa County Recovery Court (OCRC) by the OCRC team, and am agreeing to begin the OCRC before being sentenced. I understand and agree to the following:

I voluntarily chose to participate in the OCRC as a condition of my bond. I am choosing to participate of my own free choice and will.

I have no legal right to enter or participate in the OCRC, pursuant to MCL 600.1064(1), or to withdraw from the OCRC before successfully completing all requirements, pursuant to MCL 600.1070(2). My participation in the OCRC may be terminated, at any time, by the OCRC judge.

Any offer of a plea agreement between the Prosecutor and my Defense Attorney will not be official until stated on the record at sentencing.

OCRC staff will make a recommendation to my sentencing judge about my suitability to remain in the OCRC after sentencing. This recommendation will be made based on my performance in the OCRC while on bond.

I understand that if I am not sentenced into the OCRC, I may be able to withdraw my guilty plea(s) and have the matter set for a jury trial. I may also be eligible for my case to be remanded to the district court for a preliminary examination, pursuant to MCL 600.1068(5).

I will be asked to comply with a number of mandatory requirements. These requirements are designed to help me abstain from alcohol and drug use and to hold me accountable to a recovery program. By entering the OCRC, I am agreeing to comply with these requirements, which include but are not limited to:

- Random drug and alcohol testing
- Random home checks
- Curfew
- Report to Probation Officer
- Report to Case Manager
- Complete ordered community service
- Pay off court fines/costs/restitution
- Attend scheduled review hearings
- Participate in substance abuse treatment
- Meet with recovery coaches
- Attend recovery support meetings
- Seek/maintain employment
- Complete budget counseling
- Complete GED, if applicable

If I am sentenced into the OCRC, Section 1 of this agreement shall become effective immediately, and I understand the following terms on this page and those listed on pages 4-6:

My case will be transferred to the supervision of the OCRC judge, who may be different from my sentencing judge. My case will remain in the OCRC and under control of the OCRC judge until my entire probationary period ends (which extends beyond graduation from the OCRC and may extend beyond my termination or administrative discharge from the OCRC). Any probation-violation petition will be filed with, and heard by, the OCRC judge. At no time will my case be transferred back to the original sentencing judge.

My continued participation in the OCRC is solely at the discretion of the OCRC judge. Violations of OCRC rules may result in progressive sanctioning or immediate termination from the OCRC.

Termination from the OCRC will result in the imposition of a sentence, which may include jail or prison time.

Section B: *Starting the Ottawa County Recovery Court post-sentence:*

I understand that I have been referred to the Ottawa County Recovery Court (OCRC) and that (1) if approved by the OCRC team, and (2) my sentencing judge agrees to sentence me into the OCRC, then participation in the OCRC will be added as a term of my sentence and probation conditions.

The terms of this agreement (listed on pages 1 & 4-6) shall only become effective if I am sentenced into the OCRC, and will become effective immediately upon being sentenced into the OCRC. Understanding these conditions, I understand and agree to the following:

I voluntarily chose to participate and be sentenced into the OCRC. I am choosing to participate of my own free choice and will.

I have no legal right to enter or participate in the OCRC, pursuant to MCL 600.1064(1), or to withdraw from the OCRC before successfully completing all requirements, pursuant to MCL 600.1070(2). My participation in the OCRC may be terminated, at any time, by the OCRC judge.

My case will be transferred to the supervision of the OCRC judge, who may be different from my sentencing judge. My case will remain in the OCRC and under control of the OCRC judge until my entire probationary period ends (which extends beyond graduation from the OCRC and may extend beyond my termination or administrative discharge from the OCRC). Any probation-violation petition will be filed with, and heard by, the OCRC judge. At no time will my case be transferred back to the original sentencing judge.

I will be asked to comply with a number of mandatory requirements. These requirements are designed to help me abstain from alcohol and drug use and to hold me accountable to a recovery program. By entering the OCRC, I am agreeing to comply with these requirements, which include but are not limited to:

- Random drug and alcohol testing
- Random home checks
- Curfew
- Report to Probation Officer
- Report to Case Manager
- Complete ordered community service
- Pay off court fines/costs/restitution
- Attend scheduled review hearings
- Participate in substance abuse treatment
- Meet with recovery coaches
- Attend recovery support meetings
- Seek/maintain employment
- Complete budget counseling
- Complete GED, if applicable

My continued participation in the OCRC is solely at the discretion of the OCRC judge. Violations of OCRC rules may result in progressive sanctioning or immediate termination from the OCRC.

Termination from the OCRC will result in the imposition of a sentence, which may include jail or prison time.

SECTION 4: WAIVER OF RIGHTS

By entering the Ottawa County Recovery Court (OCRC), I am agreeing to give up the following constitutional and/or statutory rights:

Waiver of trial, hearing, and appeal rights: For the offense(s) which I have been sentenced into the OCRC, I give up my legal right to a jury or bench trial, the right to a speedy trial, the right to confront the witnesses against me, the right to remain silent and not incriminate myself, and the right to have the charge(s) proved against me beyond a reasonable doubt at a jury or bench trial.

As a participant in the OCRC, I also waive the right to a hearing regarding OCRC rule violation(s), and waive the right to appeal OCRC rule violations unless formally charged with a probation violation.

Waiver of right to counsel: I give up my legal right to counsel while in the OCRC. I do not have a legal right to counsel to contest any OCRC rule violations. I understand that my counsel who represented me on my underlying criminal case is no longer my counsel while I am in the OCRC.

I understand that if I have legal questions about my participation in the OCRC, I can seek advice from the designated defense attorney on the OCRC team or other staff. I understand that if I am charged with a formal probation violation, I will be given the right to counsel for legal representation for the probation violation.

Consent to search: OCRC staff, probation officers, and law enforcement personnel may search my person, property, residence, motor vehicle, or personal effects at any time and place without the requirement of probable cause or a search warrant. Those staff may seize personal property or contraband.

Waiver of privacy: OCRC staff may require that I provide personal information, to include, but not limited to: (1) criminal history; (2) police records; (3) substance abuse and mental health assessments; (4) treatment plans and recommendations; (5) medical records and reports; (6) authorizations for prescription medications; (7) financial information; and (8) documentation of employment and education.

This information may be discussed in OCRC team meetings, in treatment sessions, or in other communications related to my participation in the OCRC. Information will be shared in accordance with 42 CFR Part 2 and HIPAA regulations.

SECTION 5: PARTICIPANT AGREEMENT

As a participant in the Ottawa County Recovery Court (OCRC), I understand and agree to the following:

Release of information: I will be asked to participate in interviews, evaluations, screenings, and assessments while in the OCRC. I understand this information may be shared, and I authorize the release of all related information between parties associated with the OCRC. I understand that I may be asked to sign additional releases of information for this information to be shared.

No drugs or alcohol: I am responsible for everything that goes into my body. I agree not to use, possess, consume, or otherwise ingest, anything containing alcohol, controlled substances, or other intoxicating substances unless medically necessary and prescribed by a doctor or psychiatrist.

Drug and alcohol testing: I will be tested for drugs, alcohol, or other intoxicating substances on a frequent, random, and observed basis. I may be tested by a treatment provider, probation officer, surveillance officer, or OCRC staff. If I miss a test, it will be considered a “positive” test and I will be sanctioned accordingly.

Case staffing: Case staffing is held bi-weekly immediately before a review hearing. During case staffing, the OCRC team will review my case and discuss my progress in the OCRC. The OCRC team and judge will decide any incentive or sanction I may receive during a review hearing. I understand I will not be present during case staffing. However, the designated defense attorney on the OCRC team is present during case staffing to protect my legal rights and represent me. All OCRC team members agree to keep case staffing information confidential. Anyone who attends case staffing and is not a member of the OCRC team must sign a confidentiality agreement.

Review hearings: Review hearings are held bi-weekly immediately following case staffing. I understand that I must attend all review hearings that I am scheduled to attend. During the review hearing I may have a sanction imposed or receive an incentive, as determined by the OCRC team during case staffing, based on my performance in the OCRC.

Probation violation: I may be charged with a formal probation violation if there is a pattern of non-compliance with OCRC rules, or based on the severity of an OCRC rule violation. If I am charged with a probation violation, I will have the right to counsel of my choosing or, if eligible, a court-appointed counsel. I will not be represented by the designated defense attorney on the OCRC team. The probation violation hearing will be before the OCRC judge. If I am convicted of the probation violation, I will be sentenced by the OCRC judge.

Graduation: If I successfully complete the OCRC, I will have any charge reductions or dismissals effectuated at that time, pursuant to the prosecutor’s agreement on page 1.

I HAVE READ THIS AGREEMENT AND I UNDERSTAND WHAT I HAVE READ. I AM WILLING TO PARTICPATE IN THE OTTAWA COUNTY RECOVERY COURT AND HAVE CHOSEN TO DO SO OF MY OWN FREE CHOICE AND WILL.

PARTICIPANT

Date

DEFENSE ATTORNEY

Date

ASSISTANT PROSECUTING ATTORNEY

Date