

20th Judicial Circuit Court	RECOVERY COURT WAIVER OF RIGHTS & PARTICIPANT AGREEMENT	Ottawa County, Michigan
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Participant's Name: _____

Defense Attorney: _____

Sentencing Judge: _____

Case Number: _____ Charge(s): _____

Case Number: _____ Charge(s): _____

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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.

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SECTION 2: FINDINGS OF THE COURT

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 and voluntarily agreed to participate 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) and the OCRC’s legal eligibility criteria.
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 substance use and mental health 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 moderate to severe substance use disorder or a co-occurring mental health and substance use disorder and qualifies for substance use disorder treatment at the level of intensive outpatient or greater pursuant to OCRC eligibility criteria.

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

Defense Attorney must review this entire agreement of with their defendant.

Defendant must initial each statement on pages 3 & 4 and sign page 5.

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 shall become effective only if I am sentenced into the OCRC and shall become effective immediately upon being sentenced into the OCRC. Understanding these conditions, I agree to the following:

I have no legal right to enter or participate in the OCRC, pursuant to MCL 600.1064(1).

I voluntarily chose to participate and be sentenced into the OCRC, and by doing so voluntarily waived my right to trial pursuant to MCL 600.1068(1)(c).

I will start the OCRC post-sentence as a term of my probation.

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 my original sentencing judge.

Participation in the OCRC is a minimum of 18 months and no longer than 30 months. As a participant, I will be asked to comply with a number of mandatory requirements. These requirements are designed to help me abstain from alcohol and/or drug use and to hold me accountable to a recovery program. I agree to comply with these requirements (which are fully explained in the OCRC's Program Brochure and Participant Handbook), 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
- Payment toward 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

Violations of OCRC rules may result in progressive sanctioning or immediate termination from the OCRC. If I am convicted of a felony while in the OCRC I will be terminated pursuant to MCL 600.1074.

As a participant in the OCRC I waive the following rights pursuant to MCL 600.1068(1)(c): (1) the right to representation by an attorney at the review hearings. I still maintain the right to an attorney for any program violation or probation violation where the facts are contested and a liberty interest is at stake, or if I may be terminated from the drug treatment court program; (2) with the agreement of the prosecutor, the right to a preliminary hearing; (3) to be present at case staffing.

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

SECTION 4: PARTICIPANT AGREEMENT

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. All medications must be pre-approved before being taken.

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 and may seize personal property or contraband.

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 case staffing is not open to the public and 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. From time to time, court approved visitors may observe case staffing. Anyone who attends case staffing and is not a member of the OCRC team must sign a confidentiality agreement attesting they will not disclose any information discussed during case staffing.

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. Review hearings are recorded and open to the public per Michigan Court Rules.

Sanctions: If I commit a violation of OCRC rules a sanction may be imposed by the OCRC judge. If I agree that I committed a rule violation I will forfeit my right to a formal probation violation hearing and the OCRC judge shall impose a sanction.

I have the legal right to contest a rule violation and request a formal probation violation hearing. If I choose to contest a rule violation, a formal probation violation hearing will be scheduled separate from a review hearing and 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 held before the OCRC Judge. If found guilty of committing a rule violation, a sanction will then be imposed.

Probation Violation & Termination: 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 brought before the OCRC Judge and if convicted, sentencing will be made by the Recovery Court 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