

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

In Re: Addiction Diversionary Program

**Administrative Order
Number 6 of 2021**

ORDER OF COURT

AND NOW, this 19th day of August, 2021, this Order is entered to effectuate a minor change to the Addiction Diversionary Program and to incorporate the language from Administrative Order 29 of 2013 into the program description. This change is made to address the collection of costs associated with expungements as required under Act 5 of 2016. Upon successful completion of the Addiction Diversionary Program the petition for expungement will be prepared by the Department of Probation Services and provided to the defendant. The defendant will then sign the form and file it together with the prevailing expungement fee filing costs with the Adams County Clerk of Court's Office. The changes are reflected in the program description as set forth in Exhibit "A" and the program order/application and agreement forms as set forth in Exhibit "B".

BY THE COURT:

THOMAS R. CAMPBELL
Judge

Board of Judges
All Executive Assistants to the Common Pleas Judges
Court Administration
Clerk of Court's Office
Department of Probation Services
District Attorney's Office
Public Defender's Office
Adams County Bar Association
wlc

ADDICTION DIVERSIONARY PROGRAM

I. Policy

The Addiction Diversionary Program is a drug counseling and education program for first time offenders charged with possession of a controlled substance, other than heroin, and/or possession of drug paraphernalia. The Addiction Diversionary Program permits first time drug users the opportunity to dispose of the charges against them without a criminal record while receiving supervised treatment to address their addiction.

II. Eligibility

The following requirements must be met for admission to the program:

- A.** The applicant has charges pending for any or all of the following crimes:
 - 1.** simple possession of a controlled substance other than heroin (35 Pa. C.S.A. Section 780-113(a)(16));
 - 2.** possession of a small amount of marijuana for personal use, possession of a small amount of marijuana with the intent to distribute but not to sell, or distribution of a small amount of marijuana not for sale (35 Pa. C.S.A. Section 780-113(a)(31)(i), (ii) or (iii));
 - 3.** possession of drug paraphernalia unrelated to heroin use (35 Pa. C.S.A. Section 780-113(a)(32));
- B.** The applicant has no other ineligible misdemeanor or felony charges pending in any jurisdiction including the criminal complaint for which the application is being submitted;
- C.** The applicant has no prior adult criminal record nor has previously been admitted to the A.R.D. Program, the Addiction Diversionary Program, or other diversionary programs in any jurisdiction within the previous ten (10) years;
- D.** The applicant waives the preliminary hearing; and

- E. The Adams County District Attorney's Office recommends admission to the program.

III. Procedure

- A. At the scheduled time of the preliminary hearing, the applicant must waive the preliminary hearing. Admission to the program is not consideration for waiver of the preliminary hearing. In the event an applicant waives preliminary hearing and is not admitted to the program, the applicant shall not be entitled to remand for preliminary hearing;
- B. Application will be made to the Adams County District Attorney's Office for admission to the program on forms developed by the District Attorney's Office within seven (7) days of waiver of the preliminary hearing. Forms will be made available at all Magisterial District Judges' offices;
- C. Arraignment: At the time scheduled for formal arraignment, the applicant will be admitted to the program and the arraignment will be continued, at the request of the applicant, for six (6) months. An applicant not admitted to the program at the initial formal arraignment will thereafter be ineligible for participation in the program. Arraignment will not be continued for purposes of making application to the program;
- D. At the time of arraignment, the Commonwealth will outline the charges against the applicant. The applicant shall make a statement under oath as to the truth of the allegations alleged by the Commonwealth. The sworn statement shall be admissible at any trial in the event the applicant is revoked from participation in the program;
- E. Following arraignment: A person admitted to the program will meet with the Adams County Department of Probation Services ("DPS") for purposes of scheduling treatment with an agency designated by DPS;
- F. Six (6) months re-arraignment: If the person admitted to the program has met all conditions of the program, the Commonwealth will nolle pros the pending charges. On the other hand, if the applicant has not successfully completed all conditions of the program, the applicant shall be arraigned and the criminal charges shall proceed per the Pennsylvania Rules

of Criminal Procedure. The re-arraignment will not be continued, under any circumstances, for any person to complete the conditions of the program. If all conditions are not fully satisfied by the scheduled re-arraignment date, the person's participation in the program will be terminated; and

- G.** At any time during the six (6) month period from initial arraignment until re-arraignment, the Commonwealth and/or DPS may accelerate the scheduling of re-arraignment to remove an individual from the program;

IV. Program Conditions

- A.** Truthfully answer all questions on application for program admission.
- B.** Attend all counseling sessions scheduled with the agency designated by DPS;
- C.** Pay all Court costs, including laboratory user fees, cost of prosecution, and restitution as designated at the time of the person's admission to the program;
- D.** Comply with all state and federal laws. In this regard, the filing of criminal charges against a program participant is sufficient for removal from the program. It is not necessary that the charges be concluded and/or result in conviction;
- E.** All counseling fees are paid in full and receipt for the same is provided to DPS;
- F.** The offender remains free from the use of non-prescribed controlled substances;
- G.** The offender submits to random urinalysis testing by DPS or any agency designated by DPS and pays in full all fees related to testing; and
- H.** The participant reports as directed by DPS and advises the Adams County Clerk of Courts Office, the Adams County District Attorney's Office, and DPS of any change of address within 72 hours of such change.

V. Treatment

Treatment for the Addiction Diversionary Program shall consist of one (1) intake conference and twelve (12) counseling sessions with the agency designated by DPS. As part of the counseling and treatment, DPS or any agency designated by DPS will be conducting random urine testing of participants. At the time of admission to the program, DPS will schedule counseling sessions with the participant and the agency designated by DPS. Approximately three (3) months after admission to the program, the designated agency, will forward DPS a status report on the participant's compliance and attendance at treatment classes. A single unexcused absence will be a basis for the immediate removal from the program. It is the responsibility of the participant to provide DPS with proof of compliance with all conditions of admission into the program. After initial treatment scheduling, DPS will not manage other treatment scheduling as the same is a responsibility of the participant.

VI. Costs

The Court costs of the program shall be \$315. Participants in the program will be responsible directly to the counseling agency for all costs associated with treatment. Treatment expense shall total approximately \$600. Additionally, participant upon successful completion of the program will be required to pay to the Adams County Clerk of Courts Office the prevailing filing fee with the petition for expungement.

VII. Revocation

If an offender is revoked from participation in the program, the Court will not accept application for admission into the A.R.D. Program nor any plea agreement which involves dismissal of the drug possession charges. Upon revocation, the applicant is not entitled to reimbursement or credit for any sums paid into the program.

VIII. Expungement

Upon successful completion of the program the participant will be provided with a petition for expungement which must be signed by the participant and filed by the participant with the appropriate filing fees to the Adams County Clerk of Courts Office.

Rev. 8/2021

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA
Plaintiff

VS.

Defendant

No. CP-01-CR-

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:
:
:
:
:
:

ADDICTION DIVERSIONARY PROGRAM ORDER

AND NOW, this _____ day of _____, 20____, the Defendant is admitted into the Addiction Diversionary Program for a period of six (6) months, subject to standard conditions of the program and any special conditions set forth below. Defendant is directed to pay the fees and costs set forth in his/her application and agreement, and to abide by conditions set forth therein. Further proceedings on the charges shall be postponed during the term of the Addiction Diversionary Program. The Defendant's bail is terminated and any money or other form of security deposited is returned in accordance with the rules pertaining to bail. The following conditions shall also apply, if checked:

_____ Defendant must pay restitution as set forth in the application.

_____ Other provisions: _____
_____.

The Defendant is directed to appear for re-arraignment on _____ at 9:00 a.m. in a Courtroom to be designated.

BY THE COURT:

Judge

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA	:	No. CP-01-CR-
Plaintiff	:	
	:	
VS.	:	
	:	
	:	
	:	
	:	
Defendant	:	

ADDICTION DIVERSIONARY PROGRAM
APPLICATION AND AGREEMENT

I, the Defendant above named, hereby apply for admission into the Addiction Diversionary Program, and hereby represent and agree as follows:

1. Speedy Trial and Related Rights: I understand my right to have the criminal charges against me disposed of in a speedy manner. I also understand that provisions of Pa.R.Crim.P. 600 give me the right to have trial commence within 365 days from the date on which charges were filed against me, and that violation of speedy trial rights and/or the provisions of Rule 600 may give me the right to have all criminal charges dismissed. Further, I understand that prosecution of the charges will be postponed during my participation in the Addiction Diversionary Program and that the Commonwealth must be given the right to prosecute me if I am removed from the Addiction Diversionary Program some time in the future. In this regard, I understand the following:

- A. If I violation conditions of the Addiction Diversionary Program, the Court may remove me from the Addiction Diversionary Program and list my case for arraignment; and
- B. If am removed from the Addiction Diversionary Program, any delay caused by participation in and administration of the Addiction Diversionary Program will not be counted against the Commonwealth for Rule 600 and constitutional speedy trial provision purposes. I agree that if my trial begins beyond the time period permitted by the rule and constitutional provisions, I will give up any right to claim the benefit of speedy trial and Rule 600 provisions in regard to the time period during which I am on the Addiction Diversionary Program. In this regard, I understand that important rights may be given up or waived, represent that I am aware of and understand those rights, and voluntarily, knowingly, and intelligently choose to waive or give up those rights. If I am, for any reason, refused admission after waiving such rights, my waiver shall be invalidated.

2. Financial Responsibilities: As a condition of the Addiction Diversionary Program, I agree to pay the sum of \$315 for Court costs. I acknowledge that failure to satisfy my financial responsibilities within the time period of my Addiction Diversionary Program admission shall be grounds for removing me from the Addiction Diversionary Program. I

understand that this lump sum is comprised of various fees, charges, and costs. I understand that money paid by me will be periodically distributed to various entities entitled thereto, and that it would be difficult for the Clerk of Courts to refund any money after distribution had occurred. I agree that I shall have neither a right of accounting nor refund as to any money paid by me, should I be removed from the Addiction Diversionary Program nor shall I be entitled to future credit. All money shall become the property of the entity entitled thereto, as established by the Clerk of Courts. I also acknowledge that upon successful completion of the program a petition for expungement will need to be filed to the Adams County Clerk of Courts Office, and that I will be responsible for filing the petition and paying, at the time of filing of that petition, the prevailing fees associated with the filing of expungement petitions. Further, I agree to the following:

Lab user fee _____
Restitution _____.

3. Program Conditions: The applicant must:

- A. Truthfully answer all questions on application for program admission;
- B. Attend all counseling sessions scheduled with the agency designated by the Adams County Department of Probation Services ("DPS");
- C. Pay all Court costs, including laboratory user fees, and restitution as designated at the time of the person's admission to the program;
- D. Comply with all state and federal laws. In this regard, the filing of criminal charges against a program participant is sufficient for removal from the program. It is not necessary that the charges be concluded and/or result in conviction;
- E. Pay all counseling fees in full directly to the approved counseling agency and provide receipt for the same to DPS;
- F. Remain free from the use of non-prescribed controlled substances;
- G. Submit to random urinalysis testing by DPS or any agency designated by DPS and pays in full all fees related to testing; and
- H. Report as directed by DPS and advise the Adams County Clerk of Courts Office, the Adams County District Attorney's Office, and DPS of any change of address within 72 hours of such change.

4. Length of Program: I understand that I shall be placed in the Addiction Diversionary Program for six (6) months, subject to the program conditions set forth in paragraph 3 above and the following special conditions: _____ I acknowledge that the conditions have been explained to me and that I understand them and that violation of any

condition shall constitute grounds for my removal from the Addiction Diversionary Program.

5. Successful Completion: I understand that the charges against me will be dismissed if I successfully complete the Addiction Diversionary Program.

6. Removal from the Program: I understand that the District Attorney may request my removal from the Addiction Diversionary Program if I do not comply with the terms and conditions as described in this application. I waive the right to have the Judge who placed me in the Addiction Diversionary Program rule on the Commonwealth's request and agree that any Judge may decide the matter. I understand that a Judge may order that process should issue for my arrest so that I would be produced and be given a change to speak on the matter. I waive the right to be personally present and agree that a Judge may remove me from the Addiction Diversionary Program, in my absence, if I have been given reasonable notice and an opportunity to appear.

7. No Prior Convictions or ARD or Pending Criminal Charges: In consideration for my admission to the Addiction Diversionary Program, I hereby affirm and acknowledge that I have not been convicted of a misdemeanor or felony criminal offense in the Commonwealth of Pennsylvania or in any other state or federal jurisdiction; that I have never been placed on the Addiction Diversionary Program for a drug offense in this or any other jurisdiction; that I have not previously been admitted to A.R.D. or a pre-disposition program similar to the Addiction Diversionary Program in this or in any other state and that I do not have any misdemeanor or felony criminal charges pending in the Commonwealth of Pennsylvania or in any other state or federal jurisdiction. I understand that should this information be incorrect, that I may be removed from the Addiction Diversionary Program and, further, that I might be prosecuted subject to the provisions of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

8. Bail: I understand that once the Judge grants my motion for entry into the Addiction Diversionary Program, bail shall be terminated and any money or other form of security deposited shall be returned to me in accordance with the rules pertaining to bail.

I hereby request the Commonwealth of Pennsylvania to admit me into the Addiction Diversionary Program. I have read and understand the conditions of the program.

Defendant

Attorney for Defendant

AGREEMENT BY COMMONWEALTH

AND NOW, this _____ day of _____,
20____, I hereby consent to the Defendant's admission into the Addiction Diversionary Program in accordance with his/her application agreement.

District Attorney

Rev. 12/2012