

2003 DRAFTING REQUEST

Bill

Received: 09/16/2003

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: Sara

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - drugs
Mental Health - AODA
Counties - miscellaneous

Extra Copies: dak

Submit via email: YES

Requester's email: Sen.Roessler@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Drug/alcohol treatment as an alternative to prosecution or incarceration

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 11/25/2003	kgilfoy 12/03/2003		_____			
/P1			jfrantze 12/04/2003	_____	sbasford 12/04/2003		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2	mdsida 02/18/2004	kgilfoy 02/19/2004	pgreensl 02/20/2004	_____			
/P3	mdsida 02/24/2004	kgilfoy 02/24/2004	jfrantze 02/24/2004	_____			S&L
	mdsida 02/27/2004	kgilfoy 02/27/2004		_____			
/1			pgreensl 02/27/2004	_____	lemery 02/27/2004	lemery 02/27/2004	

FE Sent For:

<END>

03-01-04
(1/1")
See attached

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1?	mdsida 11/25/2003	kgilfoy 12/03/2003	7/19 P8	2/20 P8/B	12/21 P8/B		
	11-2/27 Kmg	1/2-2/19 Kmg					
	1/3-2/24-Kmg		2/24	2/24	2/24		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1

jfrantze _____
12/04/2003 _____

sbasford
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<END>

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By/Representing: **Sara**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs
Drunk Driving - penalties
Mental Health - AODA
Correctional System - prisons
Correctional System - jails
Counties - miscellaneous**

Extra Copies:

Anne Sappertfield (Leg. Council)
mes
dak
arg
pjh

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1?	mdsida	<i>PI-12/3 KMG</i>	<i>J12/4</i>	<i>TR8 4/4</i>			

FE Sent For:

<END>

9/2

Mtg w/ Sen. Roessler + Sara Seagust - Ann S.

George Bill - "seriously flawed"

Council on ~~Drug Abuse~~ AODA

Dennis Embry

520-299-6770

info@paxis.org

1. Senton-based accountability
Mandatory testing

2. Immed. Sanctions

⇒ 3. Jud. discretion

4. Whole person trtmt

Fam, job training...

No to WISDOM approach

Outcomes

regularly urine drops

Optional - Not mandatory - drug ct. in every county

Alternative to incarceration

Maybe(?) locked treatment

what do
drugs do?
do?

Not Hld. to 1st time offenders - leave it to county?

Not what WISDOM wants

CROSS-county (regional approach)

- but a county could
choose to do so

Lower inmate pop.

= Fewer kids born to AODA parent

Fewer victims

reduced recidivism

Participants - cultural / mental competency

Collaboration among judges, DA's, defense + LEAs

Treatment must take into acct medical complications + cond'ns

Tight supervision

Expungement - 5 yrs later
Victim involvement? ↑

Paul Onyiah

earmark OJA grant

Are counties that have drug its eligible or for the grant ???

Certain reqs for every program

~~Self~~

Some deferred prosecution, — altern. to prosecution
Some expungement incarceration

Clear definitions

Participants pay for treatment.

Long-term payment plan for participants

~~Self~~ Pilot

Success =

Sustained pd of abstinence of 9 mos + no other ~~changes~~ changes

Then retroactive vacate changes

Locals need to consult w/ Law enforcement

Advisory bd of ADDA providers
LEA

S.S. Agya

Regional correction

PDS

DAs

re development of program

electronic monitoring as an option

INDIANA 2003 S. Bill 476

Wyo. 2001 HB 0083

2001 SENATE BILL 496 vs. DRUG COURTS

remain consistent drug courts!

<p align="center">2001 SENATE BILL 496</p>	<p align="center">vs.</p>	<p align="center">DRUG COURTS</p>
<p>Senate Bill 496 requires, with specific exceptions, that all persons convicted of a nonviolent drug possession offense be placed on probation. Further, if a person violates that probation, their probation may only be modified—Not Revoked.</p>		<p>Recognizing that not everyone with an addiction has reached the stage in their addiction where they are ready to receive treatment, potential participants in the Drug Court program are screened for eligibility by the DA based on past convictions and current charges. A second assessment is subsequently made by a drug court specialist to determine suitability for the program.</p>
<p>A review of similar legislation in California reveals:</p> <ol style="list-style-type: none"> (1) There were 12,000 persons assigned to the program in the first six months, 'the care is inadequate to rehabilitate them sufficiently to avoid further brushes with the law.' (2) An estimated one-third of the offenders referred for treatment either fail to show up or drop out of assigned treatment. (3) "We are squandering a lot of resources on people who are not ready for treatment" (Superior Court Judge Michael A. Tynan). (4) Part of the problem is that sanctions are not strict enough, allowing defendants three chances to succeed before they face jail. <p>Source: Narcotics Enforcement & Prevention Digest, July 3, 2002, Vol. 8, No. 10 at 2-3.</p>		<p>*****SEE ABOVE*****</p> <p>ALSO: Drug Courts usually consists of a drug court team including a sitting judge, prosecutor, public defender, probation official, a police officer, county health workers and a member of the treatment facility. They are equipped and structured to provide community-based treatment and rehabilitation services in concert with criminal justice sanctions and procedures that reinforce each other.</p>
<p>2001 Senate Bill 496 calls for treatment rather than extended incarceration whether or not an individual is amenable to treatment.</p>	<p align="center">★</p>	<p>Drug Courts calls for treatment (in appropriate individualized circumstances) rather than extended incarceration.</p>

<p align="center">2001 SENATE BILL 496</p>	<p align="center">VS.</p>	<p align="center">DRUG COURTS</p>
<p>2001 Senate Bill 496 is a proposal based on a misrepresentation of facts that prisons are overcrowded with individuals charged with simple possession of illegal substances and legislation is needed to promote increased treatment opportunities and save taxpayer dollars.</p>		<p>Wisconsin currently has a law, Wis. Stat. § 961.475, which provides courts with a treatment option which, upon successful completion, the individual obtains discharge and dismissal for the offense.</p>
<p>2001 Senate Bill 496 would eliminate judicial discretion in determining which individuals are suitable candidates for referral to a treatment program.</p>		<p>The Wisconsin Legislature, in 2001 Wisconsin Act 109, effective February 1, 2003, has repealed mandatory minimum sentences for drug distribution related offenses. This will restore judicial discretion in determining appropriate sentences based on individual factual circumstances. In addition, Act 109 gives judges broad authority to impose condition on extended supervision. This would include drug assessment and treatment. Act 109 also gives defendants the authority to petition for modification of their prison terms based in part on their participation in treatment and rehabilitation.</p>

Flip Chart Discussion on what to be done with Senate Bill # 496

Issues – Elements of the Bill:

- Question?? Embrace DEA Principles
 - ✓ sanction based accountability
 - ✓ Immediate sanctions
 - ✓ Judicial Discretion
 - ✓ MH/Job Ancillary services
 - *Rest – Residential, employment, Educate case managers/employers about options of RX services, support and treatment.
 - ✓ Screen/Assessment (All offenders/Early)
 - *Uniform protocol/cultural competent
 - ✓ Treat the whole person
- Consistent with HFS 75
- How Rx gets funded
- Parole accessibility
- Uniformity of drug charges
- Mandatory testing
- Immediate sanctions
- Mandatory instructions/info/equality to defendants by defense counsel and prosecution
- Bill needs judicial support
 - ✓ Training for Judges
- Language includes “Shall” ?????
- Include input from the Drug court personnel in Bill
- Accountability of Judge/Judicial discretion
- Define what “Treatment” includes and funding mechanisms (language NOT limiting)
- Both judicial and defendant discretion to enroll/participate as client of drug court. Use screening process to determine eligibility
- Wraparound concepts are/should be implemented
 - ✓ Employer involvement?
 - ✓ Defendant employability – database
- Refer to Intervention and Treatment Committee
 - ✓ Needed to be involved also: Law enforcement/Drug Courts, Judicial/Defense representation is important.
- Equal access to treatment recognizing the need and severity of it
- Long term evaluation/outcome/aftercare

To Be Resolved – Elements of the Bill:

- Avoiding Institutional discrimination
- Doesn't include legal drugs
- Not drug offenses alone
- Thorough fiscal estimate attached to the bill
- Assessment – Futuristic measure of success from outcomes and did it work.

❖ Goal: Divert from jail and provide treatment and outcomes!

State Council on Alcohol and Other Drug Abuse

ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03

Hilton Milwaukee City Center, Milwaukee

⌘ Hard Core Addiction - An individual who is solely in need of drugs. Must insist in assessments.

⌘ Dual Diagnosis - 16% of inmates in DOC are mentally ill; 50% of those have addictions -- must address those individuals. All non-violent persons with mental illness including the dually diagnosed should go into treatment.

⌘ Funding -- All levels of care are difficult to include with limited funding, minimal services and waiting lists; funding drives the treatment rather than need.

State Council on Alcohol and Other Drug Abuse

ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03

Hilton Milwaukee City Center, Milwaukee

⌘ Long-Term Medication -- Include this when trying to identify the problem.

⌘ Access to Drug Courts -- Must equitably address possible cultural disparities and/or competency.

⌘ AODA VA -- Must include the family to be a successful treatment program (wraparound).

⌘ Judges -- Must include judicial collaboration with social workers and others towards ensuring sanctions work equitably.

State Council on Alcohol and Other Drug Abuse

ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03

Hilton Milwaukee City Center, Milwaukee

⌘ Sanctions are mandatory -- Must include current standards and certification processes in place as well as after-care. Pre-screening and assessment is a must.

⌘ Restorative Justice -- Any proposed/implemented legislation should include the victim in determining what happens with offenders.

⌘ Measuring Drug Courts -- Have state agencies provide policy and logistical support to manage the entire system (courts, prosecutors, etc.) -- use this as a tool.

State Council on Alcohol and Other Drug Abuse
ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03
Hilton Milwaukee City Center, Milwaukee

⌘ Developmentally disabled -- need to maximize appropriate treatment for each individual (treatment efficacy and outcome).

⌘ Training -- Ensure quality assurance for individual treatment. Those contracted to provide services must receive training for equal provision of treatment.

⌘ ESL -- Non-English speaking individuals must receive equal treatment.

State Council on Alcohol and Other Drug Abuse
ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03
Hilton Milwaukee City Center, Milwaukee

⌘ Pre-Sentence Treatment -- Individuals seeking treatment before they are incarcerated -- Is there something in place to address those individuals?

⌘ State Incentive Grant -- Legislation and policy must link with this grant and clearly indicate the intent for use of these funds.

⌘ Law Enforcement -- What about law enforcement!!
They are the ones that MUST be included in the front end of the planning process for this to work.

⌘ Drug Infiltration -- The overall drug system needs to be addressed and its affects.

State Council on Alcohol and Other Drug Abuse

ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03

Hilton Milwaukee City Center, Milwaukee

⌘ Timeline -- need to get legislation to get implementation to address the needs of individuals.

⌘ Researchers -- Researchers must be involved. Outcome studies may be helpful in strengthening the conversation with facts and statistics.

⌘ Private Insurance Companies -- In an average policy, can you get inpatient more than 10 days? Answer -- not visible. Possibly treat the stress factors that affect these individuals.

State Council on Alcohol and Other Drug Abuse
ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03
Hilton Milwaukee City Center, Milwaukee

⌘ MH/SA Parity - Proposals are pending to increase the insurance coverage to a little over \$16,000. This change in the benefit would change provision of services and increase as health care costs increase. Need realistic assessments.

⌘ Sanctions -- Most programs use graduated sanctions. A simple sanction does not have to mean jail time. This REALLY is the last resort of sanctions.

State Council on Alcohol and Other Drug Abuse
ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03
Hilton Milwaukee City Center, Milwaukee

⌘ Note: Please remember to indicate your comments on the carbon paper enclosed in your packet. You may also send it to Vince Ritacca as indicated.

⌘ Next Steps/Final Thoughts:

- These comments will be brought forward to the State Council on Alcohol and Other Drug Abuse, sent to you for comment, then move forward.
- Judicial, law enforcement, corrections, providers, etc. must work together to identify areas to include in proposed legislation.

State Council on Alcohol and Other Drug Abuse
ITC Treatment vs. Incarceration Ad-Hoc Committee -- 3/14/03
Hilton Milwaukee City Center, Milwaukee

Timeframe -- Realistically with limited budget considerations, let work on this now for the next biennium. Lets do it right!

Tasks -- Review proposed concepts, proposals, and models, and identify aspects that are beneficial. Possibly edit existing/proposed legislation to include your input; submit responses to Vince Ritacca (DHFS/DSL/BSAS, 1 W. Wilson Street, Room 434, Madison, WI 53707)

More Information -- View Dr. Embry's web site www.paxis.org for further information.

Thank you!

TREATMENT INSTEAD OF PRISON

ASA HUTCHINSON- DIR. OF DRUG ENFORCEMENT ADM.

THREE KEYS TO REFORMING THE WAY WE TREAT PRISONERS OF NON-VIOLENT CRIMES

- 1. SANCTION BASED ACCOUNTABILITY-
MANDATORY TESTING!**

- 2. IMMEDIATE SANCTION- IF A PERSON IS IN
VIOLATION THE JUDGE MUST HAVE THE ABILITY
TO SENTENCE HIM OR HER TO PRISON
IMMEDIATELY. JUDICIAL DISCRETION IS A KEY
COMPONENT TO THIS LEGISLATION. THE ONE-ON-
ONE RELATIONSHIP MUST BE THERE.**

- 3. WHOLE PERSON MUST BE TREATED- JOB
TRAINING, FAMILY ISSUES, AND OTHER
ADDICTIONS ALCOHOL AND DRUG ARE A KEEP
COMPONENT TO HEALING THE WHOLE PERSON.**

CONCERNS:

COST- WI IS GOING TO BE FACING ANOTHER BUDGET DEFICIT. LOCAL COST? COUNTIES ROLE?

PRISON POPULATION- CURRENTLY WI HAS 22,000 INMATE AND 3,400 INMATES IN OTHER STATES.

FACTS:

- IN WISCONSIN 4 OUT OF EVERY 100 AFRICAN AMERICANS ARE IN PRISON.

- ARIZONA AND CALIFORNIA CURRENTLY HAVE PROGRAMS SET UP TO ADDRESS NON-VIOLENT DRUG OFFENDERS.

- *DRUG COURTS HAVE A 70% SUCCESS RATE. WISCONSIN CURRENTLY HAS A DRUG COURT IN MADISON. THIS LEGISLATION WOULD NOT MANDATE DRUG COURT IN EVERY COUNTY.

- THE GOAL TO ALTERNATIVE TO INCARCERATION IS NOT TO LEGALIZE DRUGS BUT TO PROVIDE TREATMENT TO THOSE INDIVIDUALS WHO NEED IT.

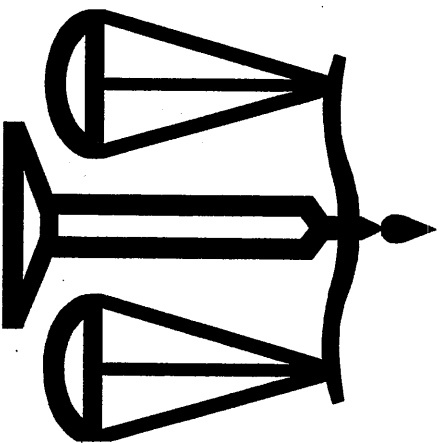
DRP



Drug Use Reduction Legislative Proposal

Milwaukee Proposal

Legislation that is supple enough to be used on an ad hoc (per case) basis in smaller counties but with enough structure to become the framework for a full time drug treatment court.



DUR creates a mechanism for offense processing that utilizes **sanctions and incentives to promptly** address drug abuse crime (primary) and certain drug abuse related crimes (secondary).

Primary Secondary

Simple drug (non-trafficking offenses) are automatically eligible for DUR subject to consent of the parties & court approval.

Subject to certain excluded offenses, non-automatically eligible offenses, that are significantly drug motivated subject to approval of the parties and certain court findings. Anticipated use may be offenders involved in minor drug sales or less serious property crimes where the crimes are significantly motivated by drug abuse.

HS10

Not Automatically Eligible Offenses

Offenses that Would Take Advantage of DUR processing through the secondary route.

Any offense not herein excluded. [Also, as noted: consent of parties and favorable court findings required under the secondary route.]

Excluded Offenses:

- Class A, B, C, D and E felonies
- offenses involving firearms; e.g., CCW (firearm), Felon in Possession of Firearm, or while armed with a firearm
- operating vehicle under the influence offenses

Primary Route

Arrest

Charge automatically Eligible Offense

- POCS, POCS-2d
- OCSBM
- PODP
- Keeping

Consent of Parties furthers Eligibility

Court Approval

Primary Route No need for pre-screening as those who might fail just continue as if a normal criminal case.

Secondary Route

Charge Other Not Automatically eligible offenses and not otherwise proscribed

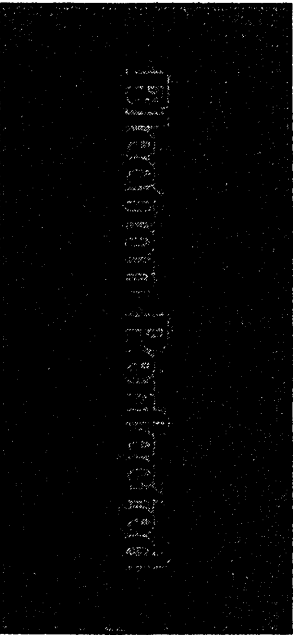
Offenses significantly motivated by drug abuse

Consent of Parties furthers Eligibility

Motion for Use of DUR Processing because the offense is believed to be significantly motivated by drug abuse.

Court finds by CLEAR & Convincing Evidence

1. Offense significantly motivated by drug abuse
2. Victim specifically and Public will not be harmed
3. DUR processing in BEST interest of Public
4. DUR processing will not unduly depreciate the seriousness of the offense



Prompt Assumption of Responsibility

☛ **Guilty Plea**

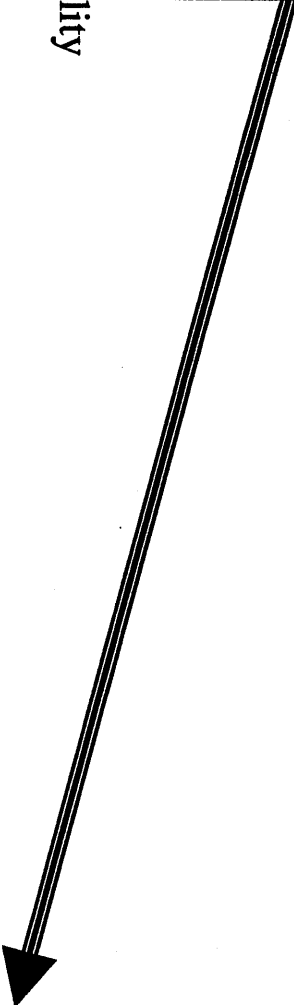
PROMPT = 10 days of
PH (felony)
or 30 days Intake
(Misdemeanor)

1) encourages prosecutors
to use DUR

2) saves litigation
expenses

3) drug use problems call
for prompt attention

[4] In non-drug, victim
involved crimes, less
burden on the victim.]

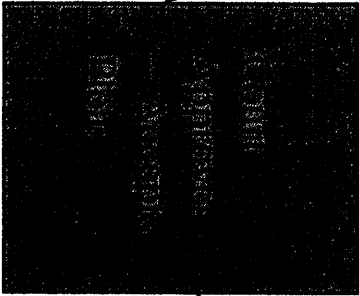


Integrity of the process necessitates ability to lodge certain challenges.



Pleas in criminal subject to jurisdictional
and/or constitutional challenges

So as not to interfere with promptly moving toward treatment or other intervention
AND so motion practice is not used solely to delay, guilty pleas can be accepted
subject to this litigation.



Sentence

Offender remains amenable to treatment or other intervention.

Presumption for Automatically eligible offenses (primary): No Incarceration.

Probation supervision subject to conditions of treatment or other alternatives directed to abstinence (Education; community service), urine screens, reporting, etc.

GOAL → successful treatment or other intervention directed at achieving sustained abstinence

Court -- Probation Supervision

Court maintains involvement with **DOC** in overseeing "drug treatment or other intervention." through reviews (times could be established):

Authority: --use graduated sanctions (incarceration) or amend conditions to achieve goals.

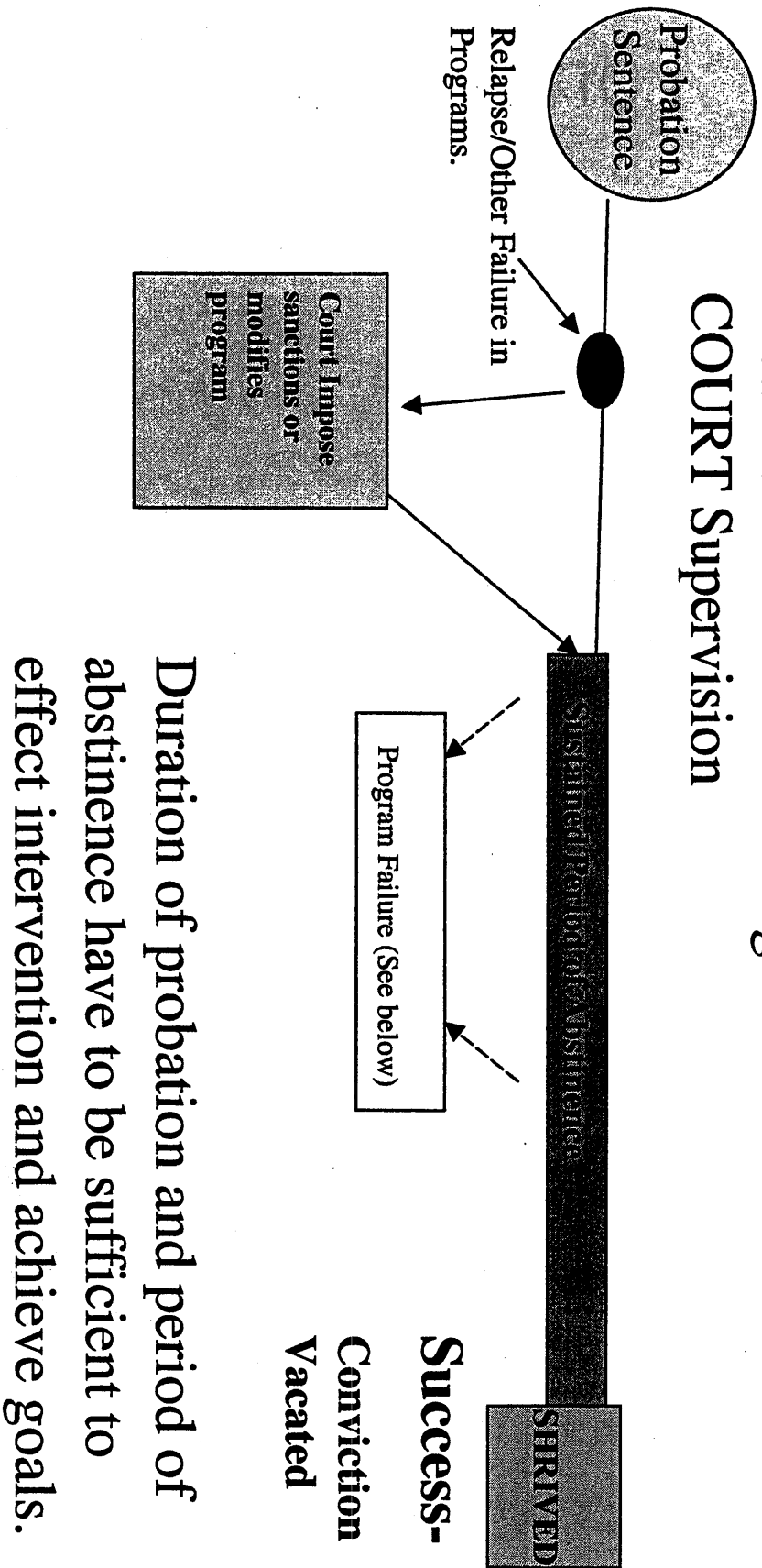
PSI (specific

for drug evaluation

(statute must permit PSI for misdemeanor)



Treatment Intervention Program/DOC and COURT Supervision

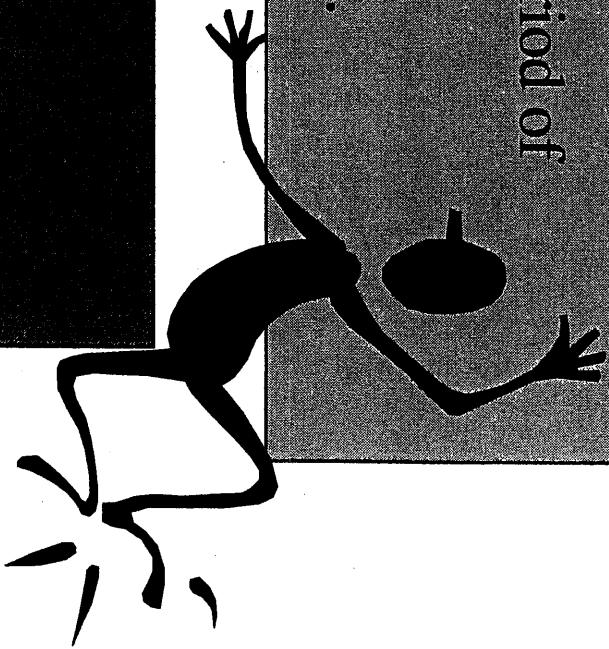


Duration of probation and period of
abstinence have to be sufficient to
effect intervention and achieve goals.

Program failure that precludes achieving goals would lead to probation revocation and sentencing. "Preclude" would mean there was no reasonable likelihood for DUR success after remedial measures, such as sanctions or modified treatment, were tried and failed, or the initial program failed and there are no viable remedial measures to impose.

Success--

- 1) Drug Treatment or other intervention leads to sustained period of drug abstinence, e.g., 9 months.
- 2) And No new Criminal Charges.



Conviction

"Technically" Vacated

(No record)

Final Report Note

DUR should be considered in conjunction with the *Youthful Offender/Anti-Recidivism Proposal (YOAR)*. This cannot be too strongly emphasized. It promotes *DUR* policy goals.

YOAR creates the mechanism for 17, 18, 19 and 20 year old offenders to earn their way out from under the heavy burden of a felony conviction record (obtain civic redemption). It does not put the public at risk and overall promotes the public interest. *YOAR* keeps hope alive for youthful offender's, thereby creating incentive not to return to illegal activity (such as drug trafficking) or turn to drug abuse.

9/3

Secy Nelson ~~with~~
wants input

Addicted Offenders Accountability and Public Safety Act

The goal of this act is to reduce the prison and jail population by providing treatment to drug and alcohol addicted offenders. This bill creates a voluntary grant program for counties to establish programs to offer treatment and treatment incentives to persons who have committed a drug-related offense.

+ alcohol _____ - county can choose

The Addicted Offenders Accountability and Public Safety Act allows for county discretion, judicial discretion, and prosecutorial discretion. This act creates an incentive-based program.

1) In order for a county to participate in the program, the county must meet the following criteria:

- Broad community involvement in developing the program, serving clients, and evaluating the effectiveness of the program. Many people have to be involved in the program, including but certainly not limited to, judges, public defenders, the district attorney, law enforcement officials, local social or human service agencies, and treatment and services providers. DOC too
- An integration of substance abuse treatment services with the justice system process. The court needs to be very involved in assuring the quality and effectiveness of the treatment programs they refer drug offenders to. The county program must give judges the tools to promptly provide effective alcohol and other drug abuse (AODA) treatment to offenders and to immediately sanction offenders who do not comply with the agreed-upon terms of the treatment. In addition, judges must have the ability to defer an offender's prosecution, offer the offender treatment as an alternative to incarceration, or expunge an offender's criminal conviction when deemed appropriate by the judge.
- Maintaining quality control between the courts and treatment services. The county must create procedures for sharing treatment information among agencies.
- County-developed offender eligibility criteria. Offenders will be eligible to participate in a program based on that county's criteria. Based on the court's discretion.
- Assessment to determine the offenders AODA and other service needs. Counties must utilize assessment tools to determine the types of treatment and services that will best address the AODA and other needs of participants. Treatment and services should address any factors that contribute to the participant's AODA use and must be tailored to recognize an offender's intellectual or educational level and must be culturally competent.

Donsia -
"Driver"
for
each
county

stet
↓
make sure person's
ability to pay
doesn't affect
person's
eligibility for
treatment

In centres
too

Sen. Roessler - willing to ~~allow~~ allow counties to ~~cover~~ cover "parole revocation" people who would be otherwise subject to

- Program sanction options that are varied in type and severity so that they are effective for the particular offender and sanctions must be immediate.
- Long-term evaluation of program effectiveness. The initiative must be evaluated to assess whether participants reduce drug and alcohol dependence and abstain from committing further crimes. This means frequent and random drug tests, such that the county is able to document that the testing is truly random. Longer-term evaluations must also be conducted to assess whether the initiative decreases jail and prison populations and costs to the law enforcement, corrections, and judicial systems.
- Ability to establish a management committee. Members include the presiding judge, a prosecuting attorney (selected by the county or district attorney), one member of the bar who practices criminal defense before the circuit court judge, a representative of the treatment providers, and any additional members the court deems necessary.

P.D. — *Densia*

2) Funding:

- Grant funds could be used for planning the initiative, as well as case management, treatment and services, and aftercare services for participants. Counties may contribute county funds, grant funds from other services, or both, to the initiative. In addition, the drug offender is required to pay for as much as his or her treatment as possible (including Medical Assistance, private insurance).
- Other Possibilities: Access to Recovery grant (federal drug and alcohol treatment voucher program), other federal grants (Dane Co. Drug Court is partially funded through the Federal Law Enforcement Grant), increase the Drug Abuse Program Improvement Surcharge (DAPIS) and apply revenue to this initiative.

3) Other considerations:

- The Addicted Offenders Accountability and Public Safety act will include an extensive list of definitions.
- Receiving treatment is entirely voluntary and is only for those who are amenable to treatment.
- Treatment must be directed at treating the whole person. This includes job training, family issues, and treating other mental health problems related to the AODA addictions.

Ok to count electronic monitoring as days for OWI purposes

Goals (in bill)

- reduce prison / jail population

- Public safety

- Reduce costs

- Successful treatment

- Integration of agencies, services

9/16 Plc from Sara

6-5300

- Include alcohol

- Minimum 3 yrs. before expungement

-

9/17 - Plc to Sara

City may override ct's authority to imprison for
1st violation under 961.47

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, September 17, 2003 1:49 PM
To: Seaquist, Sara
Subject: RE: AOAPSA comments and questions II

1. Sen. Roessler indicated at Friday's meeting that counties could choose to have their programs apply in parole/extended supervision revocation cases as well. That is, instead of being returned to prison for a drug or alcohol related violation, the person would participate in a treatment program. I just want to confirm that with you. Also, I assume that if that option is available to counties with respect to parole/extended supervision revocation cases, it would also be available in probation revocation cases too.

2. DRL Secretary Donsia Hill recommended that the criminal defense attorney referred to in the third bullet point on page 2 of your outline be a public defender. What do you think?

3. Secretary Hill also suggested that one person in the first bullet point on page 1 be a "driver" -- a strong leader for the group. Obviously, strong leadership would be helpful, but I'm not sure whether the draft should (or even can) specify anything on that issue.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, September 17, 2003 12:45 PM
To: Seaquist, Sara
Subject: AOAPSA comment and questions I

1. Here's another statute that you should look at in connection with our discussion this morning:

46.03(18)(fm)

(fm) Notwithstanding par. (a), any person who submits to an assessment under s. 961.472 shall pay a fee to the appropriate county department under s. 51.42. The department of health and family services shall set fees for each county department under s. 51.42 designed to offset all the costs to the county in providing the assessment program. The department of health and family services shall provide for the reduction or waiver of the fee for persons who are unable to pay the complete fee.

2. Can counties cover drug paraphernalia cases too? Note that a drug paraphernalia case can already be prosecuted as a civil offense if the county enacts an ordinance under s. 961.577.

3. Here is a list of different effects that expungement could have:

- permit the person to say truthfully that he or she has never been convicted
- prevent members of the public from seeing the record of the case
- prevent a court from considering the offense a prior offense for the purposes of statutes that impose higher penalties for repeat offenders
- prevent a court from considering the offense as evidence of the person's character when the court sentences the person for a different offense
- requiring law enforcement officers, district attorneys, and other government agencies to seal or destroy information from the case

Which of these effects do you want expungement to have? Note that under s. 973.015, an expungement has the first three effects listed above but not the last two.

Mike Dsida

P/c From Sara

EMail

I 1. - Skip

2. - Skip

3. - Just 1st 3

II 1. Yes - Revocation too

2. PD - yes

3. -

9/18

Met w/ Sen Roemer, Kelly Bablitch, Siroka (DHFS)
Yvonne Onyiah, Charlie Morgan (LFB), Art Z., DeDeMorgan
Ray Lueck/Dave OJA, Matt Frank, Helene Nelson

Build on what counties do

Stay Silent on age

Persons whose offenses are related to drug + alcohol - abuse

Membership

Add county agency responsible for AODA treatment
Presiding Judge / Crim court judge
DOC (Comm. Corrections)

Not by rule

DOC + DHFS jointly agree upon criteria for selecting grantees

Technical assistance from OJA for counties for accessing other (eg. fed'l) money
Eligibility criteria: County Does the county contribute significant population to corrections => in bill

OJA/DOC/DHFS to meet to decide how to set up / administer grants

Work w/ Selby Nelson - keeping bill compact (OWI stuff)
Dane County manages to do so

"Gender-specific, culturally competent"

Confidentiality - fed'l law → address via release

TAP Model

EC + Rock
County
* Other TAP
Programs

Background

1988, Governor Thompson signed into law 1987 Wisconsin Act 339 which created Wisconsin's Treatment Alternative Program (TAP). In creating TAP, Governor Thompson emphasized the clear relationship between alcohol, drugs, and crime and the growing problems associated with jail and prison crowding.

The creation of TAP in large part was the result of findings and recommendations made by a State Council on Alcohol and Other Drug Abuse (SCAODA) chaired by Senator Walter John Chilsen.

Thompson
1987
Act 339

As originally conceived, based on a 17 year-old successful national model entitled Treatment Alternatives to Street Crime (TASC), the goal of Wisconsin TAP was to break certain offenders' alcohol/drug/crime cycle. This is accomplished by creating a bridge between the criminal justice system and the treatment community.

In creating TAP, Governor Thompson and the Legislature improved on the TASC model by providing critical funding for treatment in addition to case management, as well as monitoring, and system coordination and collaboration.

TAP's improved design now links the sanctions of the criminal justice system, the personal change benefits of AOD and mental health treatment, and the added support and accountability-monitoring capabilities of case management systems - bringing all to bear on helping multi-troubled clients alter self-destructive behaviors.

Mission

The mission of TAP is to participate in justice system processing, as early in the continuum as acceptable to participating agencies.

TAP identifies, assesses and refers appropriate drug and/or alcohol abusive or addicted offenders accused or convicted of nonviolent crimes to community based substance abuse treatment.

TAP then monitors the AODA offender or clients', compliance with individually tailored progress expectations for abstinence, employment, and improved social-personal functioning.

TAP reports treatment results back to the referring criminal justice system component. Clients who do not follow, or violate conditions of their justice mandate are returned to the justice system for continued processing or sanctions.

Dane County
Dept
Human
Services

State + County
* funding

Looking at people
getting set & then
being dropped off.

* Fed Block Grant \$ for Dane County

Critical Elements

- 1 A broad based support within the justice system with a protocol for continued and effective communication
- 2 A broad base of support within the treatment system with a protocol for continued and effective communication
- 3 An independent TAP Unit with a designated administrator
- 4 Policies and procedures for required staff training
- 5 A data collection system to be used in program management and evaluation
- 6 A number of agreed upon offender eligibility criteria
- 7 Procedures for the identification of eligible offenders that stress early justice and treatment intervention
- 8 Documented procedures for assessment and referral
- 9 Documented policies and procedures for random alcohol and/or drug testing
- 10 Procedures for offender monitoring that include criteria for success/failure, required frequency of contact, schedule of reporting and notification of termination to the justice system

Major Service Components

Screening and Assessment

Determine program eligibility based upon agreed eligibility criteria. Evaluate clinical and other areas of need and make appropriate treatment and other service recommendations

Project Coordination

A Designated Administrator to provide leadership and coordination of community based service providers and function as the liaison to the criminal justice system. Responsible for establishing working agreements between the various treatment and other service providers and between the criminal justice and treatment systems

Intensive Case Management

Ensures offender accountability by providing intense supervision of program participants, while providing assistance and support for compliance with treatment and referral to services to address other areas of need (criminality, employment, housing, education, financial, medical care, mental health, interpersonal relationships, parenting, etc.).

Treatment

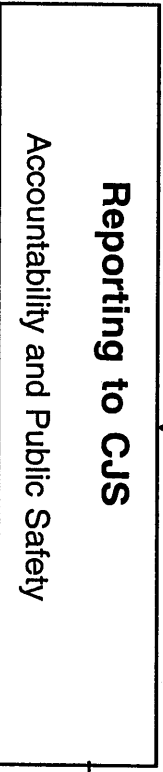
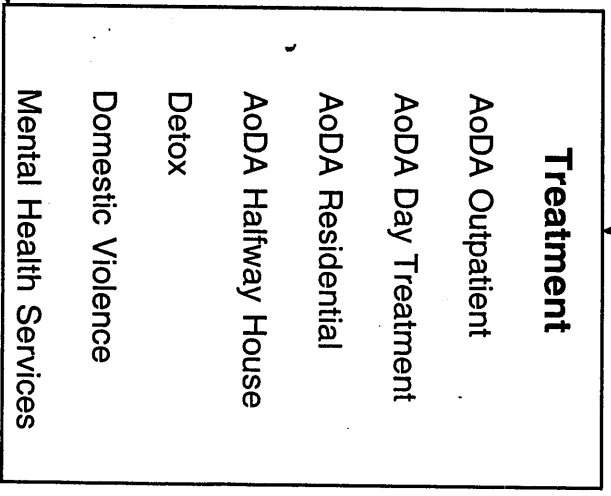
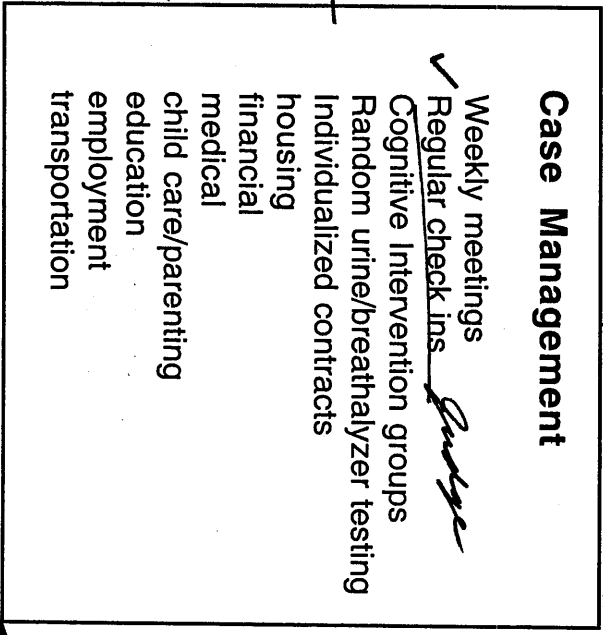
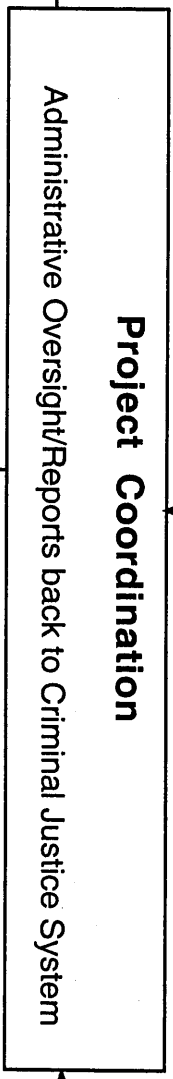
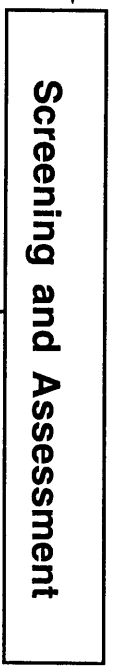
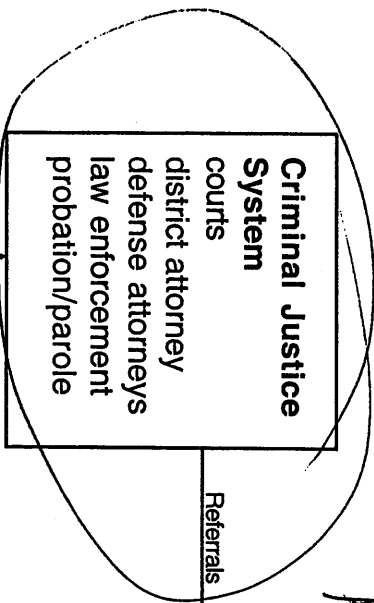
Provide the broadest continuum of treatment possible to individualize service to the needs of each program participant. (outpatient, day treatment, residential). Inclusion of mental health related services (psychiatric evaluation and treatment)

Reporting to Criminal Justice System

Provide accountability for program participants and address concerns of public safety

Hands off System
TAP Model

14 years in
Dane County



not everyone benefits from meeting w/ a Judge on a regular basis

Core

How many have been diverted from prison?

How many have been diverted from prison? # of inmates in courts prisons

TAP

*Blaine
Nancy*

Esther on both

DRUG COURT

REFERRALS

District Attorney's office decision for case disposition

Court approval of TAP as part of sentence disposition or by approval of probation agent if an alternative to revocation agreement

TYPE OF DIVERSION

Sentence Alternative/ county jail sentence reduction or Formal alternative to revocation

Deferred Prosecution or Reduction of conviction and/or penalty

TYPES OF CHARGES

Criminal Traffic (OWI, 3rd offense or greater)
Drug Charges (possession, prescription fraud)
Property Crimes (theft, burglary, forgery)
Battery, Disorderly conduct

*no alternative
local
Successful Drug
Court participant*

Drug Charges (possession, prescription fraud)
Property Crimes (theft, burglary, forgery)
Disorderly conduct/resisting (nonviolent-misd)

any person

LEGAL INCENTIVES

Reduction or elimination of jail time
Avoid county jail or state prison time or alternative to revocations

*also both
situation*

Dismissal of charge
Reduction of charge or reduction of penalty

Six months

Persons who are abusing or addicted to AOD's
Treatment indicated

PROGRAM LENGTH

Variable Length (minimum of nine months and up to two years)
Target Group

TARGET GROUP

AODA Education for non problem users
Treatment for those abusing or addicted

REPORTING TO CRIMINAL JUSTICE SYSTEM

Program Coordinator responsible for notifying court on eligibility status of referrals, admission to the program and status at discharge. Procedures in place for authorizing jail releases, returns to custody. Notification procedures in place with CJS for Informing TAP of new arrests and warrants for active participants. On ATR cases, TAP works directly with agents through reports, immediate notice of program violations, joint case reviews and case planning.

Court maintains judicial oversight of program.

Program participants attend regularly scheduled court reviews to monitor progress and compliance. Court imposes sanctions or recommends termination if necessary. Written reports are submitted to court by program staff. Program Coordinator participates in the court case and scheduling of impromptu reviews as needed.

*to be supervised
local
Review
specific
to be supervised
local*

JFE

Back ground

Spoke People

*WRITING TO ALU - Science
BU 4:15
4:30*

DANE COUNTY TREATMENT DRUG COURT

Name: _____

D.O.B: _____

1. How often do you have a drink containing alcohol? (Check one)

Daily or nearly daily? _____
Weekly _____
Monthly _____
Less than monthly _____
Never _____

2. How often do you use drugs like marijuana, tranquilizers, cocaine, LSD, heroin, uppers, or downers, for other than medical reasons? (Check one)

Daily or nearly daily? _____
Weekly _____
Monthly _____
Less than monthly _____
Never _____

3. In the past 12 months, have you drank alcohol or used drugs more than you meant to? (Check one)

More than 10 times _____
5-10 times _____
3-4 times _____
1-2 times _____
Never _____

4. In the past 12 months, have you wanted or needed to cut down on your drinking or drug use? (Check one)

Yes _____
No _____

5. In the past 12 months, have friends or relatives worried or complained about your drinking or drug use? (Check one)

Yes _____
No _____

6. In the past 12 months, has your drinking or drug use caused health, family, emotional, job, school, legal, or financial problems? (Check all that apply)

Health _____
Family or other relations _____
Job _____
School _____
Legal, including arrest or police call _____
Financial _____
None of the above _____

7. In the past 12 months, have you received treatment or help for an alcohol or drug problem?

Yes _____
No _____

8. Have you ever received treatment or help for an alcohol or drug problem?

Yes _____
No _____

**W-2 Screen For Substance Abuse and Dependence
Scoring Instructions**

Referrals to assessment should be made if:

- A. There are two (2) or more positive responses to questions 3 through 6.

A positive response to question number 3 is 3 or more times.

Two or more affirmative responses to question number six (6) is a positive response.

Or,

- B. There is an affirmative response to question number seven (7) or question number eight (8).

**Modified MAST
ALCOHOL/DRUG USE SCREENING QUESTIONNAIRE**

CIRCLE YES OR NO FOR EACH OF THE FOLLOWING QUESTIONS:

1. Do you drink or use drugs now and then?YES NO
2. Have you ever awakened in the morning after drinking/using drugs and found that you could not remember part of the evening before?YES NO
3. Has your partner, parents, or others ever worried or complained about your drinking or drug use?YES NO
4. Have you always been able to stop drinking or using drugs without a struggle after drinking or using a small amount?YES NO
5. Have you ever felt guilty about your drinking or drug use?YES NO
6. Have you always been able to stop drinking or using when you want to?YES NO
7. Have you ever attended a meeting of Alcoholics Anonymous (AA) or Narcotics Anonymous (NA)?YES NO
8. Have you gotten into fights when drinking or using drugs?YES NO
9. Has your drinking or drug use ever created problems with you and your current or ex-partner?YES NO
10. Has your partner or other family members ever gone to anyone for help about your drinking or drug use?YES NO
11. Have you ever lost friends because of your drinking or drug use?YES NO
12. Have you ever gotten into trouble at work because of your drinking or drug use?YES NO
13. Have you ever lost a job because of your drinking or drug use?YES NO
14. Have you ever neglected your obligations, your family, or your work for two or more days because of your drinking or drug use?YES NO
15. Have you ever drank or used drugs in the morning?YES NO
16. Have you ever been told that you have medical problems because of your drinking or drug use (ie: liver trouble, aggravated ulcer, heart problems)?YES NO
17. Have you ever experienced nervousness, nausea, shaking or heard voices or seen things that weren't there after heavy drinking or drug use?YES NO
18. Have you ever gone to anyone for help because of your drinking or drug use?YES NO
19. Have you ever been in a hospital because of your drinking or drug use?YES NO
20. Have you ever been a patient in a psychiatric hospital or psychiatric ward of a hospital?YES NO
21. Have you ever been seen at a psychiatric or mental health clinic, or gone to any doctor, social worker, or clergyman for help with an emotional problem?YES NO
 - a. Was drinking or drug use a part of the problem?YES NO
22. Have you ever been arrested, for even a few hours, when under the influence of alcohol or drugs?YES NO

DATE _____

CLIENT'S SIGNATURE _____

MAST TEST (Revised)**Michigan Alcohol Screening Test**

The MAST Test is a simple, self scoring test that helps assess if you have a drinking problem. Please circle the answers to the following YES or NO questions:

1. Do you feel you are a normal drinker? ("normal" - drink as much or less than most other people)
Circle Answer: YES NO
2. Have you ever awakened the morning after some drinking the night before and found that you could not remember a part of the evening?
Circle Answer: YES NO
3. Does any near relative or close friend ever worry or complain about your drinking?
Circle Answer: YES NO
4. Can you stop drinking without difficulty after one or two drinks?
Circle Answer: YES NO
5. Do you ever feel guilty about your drinking?
Circle Answer: YES NO
6. Have you ever attended a meeting of Alcoholics Anonymous (AA)?
Circle Answer: YES NO
7. Have you ever gotten into physical fights when drinking?
Circle Answer: YES NO
8. Has drinking ever created problems between you and a near relative or close friend?
Circle Answer: YES NO
9. Has any family member or close friend gone to anyone for help about your drinking?
Circle Answer: YES NO
10. Have you ever lost friends because of your drinking?
Circle Answer: YES NO
11. Have you ever gotten into trouble at work because of drinking?
Circle Answer: YES NO
12. Have you ever lost a job because of drinking?
Circle Answer: YES NO
13. Have you ever neglected your obligations, your family, or your work for two or more days in a row because you were drinking?
Circle Answer: YES NO
14. Do you drink before noon fairly often?
Circle Answer: YES NO
15. Have you ever been told you have liver trouble such as cirrhosis?
Circle Answer: YES NO
16. After heavy drinking have you ever had delirium tremens (D.T.'s), severe shaking, visual or auditory (hearing) hallucinations?
Circle Answer: YES NO
17. Have you ever gone to anyone for help about your drinking?
Circle Answer: YES NO

18. Have you ever been hospitalized because of drinking?
Circle Answer: YES NO

19. Has your drinking ever resulted in your being hospitalized in a psychiatric ward?
Circle Answer: YES NO

20. Have you ever gone to any doctor, social worker, clergyman or mental health clinic for help with any emotional problem in which drinking was part of the problem?
Circle Answer: YES NO

21. Have you been arrested more than once for driving under the influence of alcohol?
Circle Answer: YES NO

22. Have you ever been arrested, even for a few hours because of other behavior while drinking?
(If Yes, how many times _____)
Circle Answer: YES NO

Scoring for the MAST Test

Please score one point if you answered the following:

- 1. No
- 2. Yes
- 3. Yes
- 4. No
- 5. Yes
- 6. Yes
- 7 through 22: Yes

Add up the scores and compare to the following score card:

- 0 - 2 No apparent problem
- 3 - 5 Early or middle problem drinker
- 6 or more Problem drinker

[Return to Treatment Resources]

Page last updated March 3, 1999

Dane County TAP and Drug Court Treatment Program
Assessment Protocol

Diagnostic Impressions made according to DSM-IV

Instruments used along with clinical interview and collateral contacts include:

Modified Version of the Michigan Alcohol Screen Test (MAST)
Beck Depression Inventory
Partner Abuse Scale

Areas Addressed in Evaluation:

Reason for Referral

Alcohol and Drug Use History

Treatment History

Legal History

Family/Relationships

Client Support and Strengths

Education History

Finances

Employment History

Mental Health History

Military History

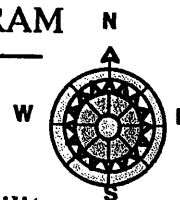
Biomedical Conditions and Complications

Summary of AODA Findings (Documented symptoms per DSM IV)

Clinical/Cultural Observations and Recommendations

DANE COUNTY DRUG TREATMENT COURT PROGRAM

"A new direction in combating drug abuse related crimes"



Criteria for Exclusion of Offenders from Drug Court Eligibility

Certain defendants are not eligible for Drug Court based on the criteria indicated below. Such persons should not be referred to Drug Court. All other defendants are eligible and may be referred to Drug Court at the discretion of the District Attorney's office.

1. **Exclusion based on nature of referral offense** -- Some charges should never be referred to Drug Court. They are as follows:
 - a. violent felonies;
 - b. violent misdemeanors;
 - c. drug trafficking offenses;
 - d. OWI's;
 - e. charges in which the defendant has been placed on probation --
Note: This means Drug Court should not be used as a condition of probation. A defendant may be referred to Drug Court on an offense committed while on probation.
2. **Exclusion based on prior convictions** -- Defendants who have been previously convicted of certain offenses should not be referred to Drug Court. Such defendants are ineligible as follows:
 - a. violent felonies -- A defendant who has been convicted or adjudged delinquent of a violent felony any time before he or she is referred to Drug Court is not eligible for Drug Court.
 - b. violent misdemeanors -- A defendant who has been convicted or adjudged delinquent of a violent misdemeanor within 3 years of the date of the offense on which he or she is being referred shall not be accepted into Drug Court. A defendant who has been convicted of a violent misdemeanor more than 3 years prior to the above date is eligible for Drug Court the same as any defendant.
3. **Exclusion based on pending charges** -- Defendants who have certain pending charges (other than the one referred to Drug Court) should not be referred to Drug Court. Such charges are as follows:
 - a. violent felonies;
 - b. violent misdemeanors;
4. **Exclusion based on residence** -- A defendant who is not a resident of Dane County is not eligible for Drug Court.
5. **Definitions** --
 - a. violent misdemeanors -- Battery or any other misdemeanor which involved a physical contact to others or possession of a weapon as defined by Wisconsin Statutes. Physical threats to others may result in non-eligibility.
 - b. violent felonies -- all forms of homicide or attempted homicide, all forms of robbery or attempted robbery, all forms of sexual assault or attempted sexual assault, kidnapping, false imprisonment, hostage taking, extortion, loan sharking, threats to injure, reckless injury, reckless endangering safety, all forms of arson, mayhem, all forms of felony battery, stalking, intimidation of a victim or witness, any weapons offense or other felony which involved the threat or use of force against another person.
 - c. drug trafficking offenses -- this includes delivery, manufacture or possession with intent to deliver a controlled substance or non-controlled substance; a referral of such offenses may be made on an exceptional basis at the discretion of the prosecutor.

A collaboration among Dane County Circuit Courts, Dane County District Attorney's Office, Dane County Department of Human Services, Alternatives to Incarceration Program-Dane County Clerk of Courts, Public Defender's Office, Dane County Sheriff's Department, Madison Police Department, ARC Community Services, ATTIC Correctional Services, Mental Health Center of Dane County, Wisconsin State Department of Corrections, Bureau of Substance Abuse Services, Department of Health and Family Service, PICADA, Hope Haven, Dane County Minority Affairs Office, and the Dane County Association of Criminal Defense Lawyers