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## FORENSIC DIVERSION DRUG COURT PROGRAM

The following is a breakdown of the process of obtaining entrance of a criminal defendant into the Tippecanoe County Forensic Diversion Drug Court Program. Application time limits and following process are non-negotiable. If Client is rejected by one program the client will not be eligible for an alternative program.

### PROGRAM REQUIREMENTS:

- Forensic Diversion:
  1. Minimum non-suspendable sentence.
  2. ALL pending or open cases in any other jurisdiction or court must be transferred to Forensic Diversion Drug Court Team jurisdiction.
  3. Must be a Tippecanoe County resident.
  4. Program is three years in length.
  5. Co-occurring disorder Substance abuse and/or mental health disorder.
  6. Assessment and referral to Forensic Diversion Drug Court Team.
  7. Acceptance of Clients by Forensic Diversion Drug Court Team.
  
- Drug Court
  1. Minimum 24 month program commitment.
  2. ALL pending or open cases in any other jurisdiction or court must be transferred to Forensic Diversion Drug Court Team jurisdiction.
  3. Must be a Tippecanoe County resident during the Drug Court Program.
  4. Assessment and referral to Forensic Diversion Drug Court.
  5. Acceptance of Clients by Forensic Diversion Drug Court Team.
  
- Defense attorney to obtain application from the Tippecanoe County Prosecutor's Office, Probation Department, Court Services, Community Corrections or online at [http://www.tippecanoe.in.gov/egov/docs/1249479434\\_404541.pdf](http://www.tippecanoe.in.gov/egov/docs/1249479434_404541.pdf)
  
- Defense Attorney shall meet with the Prosecutor and the Deputy Prosecuting Attorney assigned to the case to determine preliminary eligibility and to obtain preliminary prosecutorial approval.
  
- Following preliminary prosecutorial approval, the Defendant will complete an assessment to include recommendations for most appropriate problem-solving court and recommendations for case planning. Attorney recommended to contact Wayne Fountain at the Public Defender's Office or Kipp Scott at the Probation Department to obtain a list of agencies for program assessments.
  
- Bio-Psychosocial Assessment will be provided to Prosecutor and Defense Attorney for review and completion of a plea agreement.
  
- Upon acceptance of a plea agreement including Forensic Diversion Drug Court, the Defense attorney shall provide the application for Forensic Diversion Drug Court Program and the Bio-Psychosocial Assessment to Chief Probation Officer at the Tippecanoe County Probation Department within five (5) days of acceptance.
  
- Probation will complete Presentence Investigation that will include defendant's statement and recommendation for disposition and forward to the Forensic Diversion Drug Court Team for final prosecutorial and team approval.
  
- Probation will forward the team's decision to the sentencing Court, Prosecutor, and Defense Attorney within 24 hours of the team's decision.
  
- **Defense Attorney is recommended to attend team meetings when discussion of client takes place.**
  
- If required, a clean up statement(s) will occur between plea agreement phase and sentencing.


**Tippecanoe County Forensic Diversion Drug Court Program**  
**Form: Application 1**  
**Revised 08-18-2009**

STATE OF INDIANA )  
 )SS: IN THE TIPPECANOE SUPERIOR COURT  
COUNTY OF TIPPECANOE )

STATE OF INDIANA )  
 )  
v. ) CAUSE NO. :  
 )  
 )  
 )



**APPLICATION FOR ADMISSION TO FORENSIC DIVERSION DRUG COURT PROGRAM**


I, \_\_\_\_\_  hereby apply for admission to the Tippecanoe County Forensic Diversion Drug Court Program.



I understand that admission is contingent upon all of the following:

1. Approval of the Prosecuting Attorney.
2. Qualify pursuant to Indiana Code 11-12-3.7 et.seq.
3. Qualify pursuant to Indiana Code 12-23-14.5 et.seq.
4. Qualify pursuant to Indiana Code 35-41-1-11 and 35-50-2-2
5. Assessments as ordered by the court and provided by the Tippecanoe County Forensic Diversion Drug Court Program that determine that I have mental illnesses or addictive disorders that meet the Program's requirements.
6. My signing all release of information forms requested by the Program.
7. Consent of the presiding judge of the Tippecanoe County Forensic Diversion Drug Court Program and the Forensic Diversion Drug Court Program Team.
8. My entering into a Participation Agreement.
9. Approval of the court in which the charges against me are pending.

I request that the court order an assessment to determine whether I am eligible for the Tippecanoe County Forensic Diversion Drug Court Program and stay the proceedings in this case until such time as a decision is made by the Presiding Judge of the Forensic Diversion Drug Court Program and the Forensic Diversion Drug Court Program Team on my application for admission to the Program. I further request that a copy of the Presentence Investigation Report be provided to the Presiding Judge of the Forensic Diversion Drug Court Program and the Forensic Diversion Drug Court Program Team to aid in determining my admission to the Program.

\_\_\_\_\_  Date: \_\_\_\_\_   
Defendant

\_\_\_\_\_ Date: \_\_\_\_\_   
Attorney for Defendant

Attorney Telephone: \_\_\_\_\_   
Attorney Email address: \_\_\_\_\_ 

Copies to:

Prosecuting Attorney, attention Patrick Harrington

Probation Department, attention Kipp Scott

Community Corrections, attention, Executive Director

Participant's Name (Print):



Case Number: 79



## Policy Concerning Drugs and Alcohol

**CAUTION:** The following document is legally binding. Read and understand it before signing.

Participation in the Tippecanoe County Forensic Diversion Drug Court Program is voluntary. Those who apply must understand that they do so of their own free will. Additionally, those who apply ***must understand*** that the program has a ***zero tolerance of alcohol and drugs***. Therefore every applicant for the Forensic Diversion Drug Court Program is required to sign the following document prior to being accepted into the program.

**If admitted into the Tippecanoe County Forensic Diversion Drug Court Program, I understand and agree to the following term:**

**If I test positive for or possess marijuana or any other illegal drug, or possess or consume alcohol, I will immediately be taken to jail for up to 72 hours without the right of a disciplinary hearing and the presiding judge may impose additional jail time as a sanction. Further I may be removed from the Program.**

**Dilute samples shall be treated as a refusal to provide a valid testable sample and will be considered a failed drug screen and a violation of the program rules.**

**By my signature below, I acknowledge that I have read and understood all of the above, and agree to all disciplinary terms as stated.**

**I agree to submit to Urinalysis, Breath Test, Blood or Hair testing when requested by Forensic Diversion Drug Court personnel, law enforcement officer, or sentencing court.**

Signature: \_\_\_\_\_  Date: \_\_\_\_\_ 

Witness: \_\_\_\_\_

# Tippecanoe County Forensic Diversion Drug Court Program

Case Number: 79



Form: Waiver and Consent to Search 1  
Revised 08-18-2009

## WAIVER AND CONSENT TO SEARCH

*I have been advised* of my rights under the Fourth Amendment to the U.S. Constitution and Article 1 § 11 of the Indiana Constitution, which are set out below, and understand those rights.

I hereby waive my right to object *under the Fourth Amendment to the U.S. Constitution and Article 1 § 11 of the Indiana Constitution to searches of my person, residence, place of business, papers and effects and any place over which I have custody or control regardless of whether I share that custody or control with other persons, when conducted by representatives of the Forensic Diversion Drug Court Program, members of the Forensic Diversion Drug Court Team, Community Corrections staff, Probation Officers, treatment providers engaged in treatment with me through the Forensic Diversion Drug Court Program, and police officers, irrespective of whether the search is supported by a warrant or reasonable and probable cause.*

I hereby consent to search *of my person, residence, place of business, papers and effects and any place over which I have custody or control regardless of whether I share that custody or control with other persons, when conducted by representatives of the Forensic Diversion Drug Court Program, members of the Forensic Diversion Drug Court Team, Community Corrections staff, Probation Officers, treatment providers engaged in treatment with me through the Forensic Diversion Drug Court Program, and police officers, at anytime, without prior notice, and irrespective of whether there is a warrant or reasonable and probable cause to search.*

This Waiver and Consent shall take effect upon my acceptance to the Forensic Diversion Drug Court Program and continue in effect for so long as I am a participant in the Forensic Diversion Drug Court Program.

The constitutional provisions read:

1. *U.S. Constitution Amendment IV:*

**The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.**

2. *Indiana Constitution Article 1 § 11:*

**The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.**

I voluntarily sign this Waiver and Consent without threats, promises or coercion of any kind. I fully understand the meaning of this Waiver and Consent.

Participant's Signature: \_\_\_\_\_  
Printed: \_\_\_\_\_



Date: \_\_\_\_\_



Witness's Signature: \_\_\_\_\_

*Tippecanoe County Forensic Diversion Drug Court Program*

**Form: Participation Agreement 1**

**Revised 08-18-2009**

|                      |   |                                      |
|----------------------|---|--------------------------------------|
| STATE OF INDIANA     | ) |                                      |
|                      | ) | SS: IN THE TIPPECANOE SUPERIOR COURT |
| COUNTY OF TIPPECANOE | ) |                                      |
|                      | ) |                                      |
| STATE OF INDIANA     | ) |                                      |
|                      | ) |                                      |
| v.                   | ) | CAUSE NO.                            |
|                      | ) |                                      |
|                      | ) |                                      |

*Tippecanoe County Forensic Diversion Drug Court Program*

**PARTICIPATION AGREEMENT**

This Participation Agreement is an agreement by and between the Participant \_\_\_\_\_ and the Tippecanoe County Forensic Diversion Drug Court Program. The Presiding Judge of the Program shall sign the Agreement on behalf of the Program.

This Participation Agreement will take effect at the time that it is executed by you and the Presiding Judge and will continue in effect for so long as you are a participant in the Forensic Diversion Drug Court Program.

**Program Requirements**

1. You agree that participation in the Forensic Diversion Drug Court Program is a privilege and not a right.
2. You must be placed in the Forensic Diversion Drug Court Program (FDDCP) by the judge in whose court your case is pending.
3. You shall execute a waiver of extradition and may be requested to surrender all passports which will be held by Tippecanoe County Probation.
4. You shall not possess or consume any illegal controlled substances. You shall not possess or consume any legal controlled substances or legend drugs without a valid prescription of a doctor or other lawful order issued by a medical practitioner. You shall not possess or consume any alcoholic beverage, or any other food, material, or substance that contains alcohol. Any violation of this policy shall result in a sanction, which may include jail or termination from this program. You shall not enter any bar, tavern, liquor store, or any other establishment that the primary purpose is serving or selling of alcoholic beverages.
5. You shall consent to search of your person, residence, place of business, papers and effects and any place over which you have custody or control regardless of whether you share that custody or control with other persons when conducted by representatives of the Forensic Diversion Drug Court Program, members of the Forensic Diversion Team, Community Corrections staff, Probation Officers, treatment providers engaged in

treatment with you through the Forensic Diversion Drug Court Program, and law enforcement officers, at anytime, without prior notice, and irrespective of whether there is a warrant or reasonable and probable cause to search. You shall *wave* any objection to a search of your person, residence, place of business, papers and effects and any place over which you have custody or control regardless of whether you share that custody or control with other persons, on any federal (see #6 below) or State constitutional grounds.

6. The text of the U.S. 4<sup>th</sup> Amendment regarding reasonable searches and seizures reads as follows, and any relevant State constitutional provisions are incorporated by reference:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

7. You shall permit the Forensic Diversion Drug Court Program personnel or any law enforcement officer to enter, visit and search your place of residence or work place at any time and without notice. Police narcotics dogs may be used in searches. All persons in your home at the time of a home visit shall be fully identified.
8. You shall execute all requested consents, authorizations and releases for information and records and waive any right of confidentiality in such information and records. You shall authorize the Presiding Judge, the Forensic Diversion Team and its staff, treatment providers and your attorney to obtain, receive, provide to others associated with the program and discuss all information and records regarding you, your history and your performance in order to evaluate your progress while in the Forensic Diversion Drug Court Program. Such information and records may be discussed in open court.
9. Neither the Presiding Judge, Forensic Diversion Team, Forensic Diversion Drug Court Program staff nor the County of Tippecanoe, its personnel, employees, staff and agents shall be liable for any medical expenses, problems, or injuries that you incur while at your place of employment while you are a participant in the Forensic Diversion Drug Court Program or as a result of your participation in the Forensic Diversion Drug Court Program.
10. You shall sign an individual case plan for treatment and participate in the accomplishment of designated goals and objectives.
11. The Forensic Diversion Drug Court Team shall determine your case plan, and you shall follow the requirements set out for you. The requirements may be modified from time to time at the discretion of the Forensic Diversion Drug Court Program.
12. You shall submit to risk assessment, mental health assessments and substance abuse assessment as deemed appropriate. You may be required to participate in mental health and substance abuse treatment according to your case plan. Community Corrections programs such as work release, house arrest and work crew may be required. Transitional housing, residential treatment and rehabilitation placements may be required.
13. When you are allowed to live independently, the Forensic Diversion Drug Court Program must approve of the place where you reside and the person or persons with whom you reside. The person(s) with whom you reside shall sign a waiver consenting to his/her/their being tested for drug and alcohol use if requested to do so. You shall not

change your place of residence without the consent of the Forensic Diversion Drug Court Program. You shall be subject to unannounced home, work and school visits by the Forensic Diversion Drug Court Program staff at any time.

14. Forensic Diversion is approximately a 3 - year program and Drug Court approximately a 2 - year program.
15. Your program shall be divided into phases. Advancement through the phases will not be automatic but determined by the Forensic Diversion Drug Court Team.






### **General Rules and Regulations**

16. You shall report to Court for status hearings as ordered and shall engage in discussions regarding your progress in the Forensic Diversion Drug Court Program.
17. You shall attend, actively participate in, and complete all evaluations and recommended treatment required by the Forensic Diversion Drug Court Program. You shall agree to enroll in and complete all courses and programs recommended by the Forensic Diversion Drug Court Program.
18. You shall report in a timely manner for all appointments, therapy and counseling sessions, daily reporting requirements, court appearances, work and all other obligations asked of you by any member of the Forensic Diversion Drug Court Team.
19. You shall submit to a urine, breath, hair, or blood test for alcohol or drug use whenever requested by Forensic Diversion Drug Court Program staff or any law enforcement officer. If you fail to give a sample within two hours, it will be considered a refusal. A test result returned from the lab dilute will be considered refusal. Any refusal to submit a sample will be considered a violation of program rules. If you fail a drug test, and a confirmation test is necessary, you will pay the additional lab confirmation fee.
20. You shall submit to a Breathalyzer whenever requested by Forensic Diversion Drug Court Program staff. You shall not ingest or take anything into your mouth containing alcohol while on the Forensic Diversion Drug Court Program, e.g., mouth wash, cough medicine, any foods containing alcohol.
21. You shall inform all health providers (doctors, psychiatrists, therapists, pharmacists, nurses, etc.) that you are a recovering addict and are participating in the Forensic Diversion Drug Court Program that has medication use restrictions. You shall report all doctor, hospital, and clinic appointments when appointments are made, and contact your case manager prior to any contact with any health professional. You shall provide copies of all prescriptions to your Case Manager prior to filling. If you are seen in the emergency room, you shall provide a copy of the discharge papers to your Case Manager. You shall inform the pharmacy team of all prescription and over the counter medications you are using. You shall call the pharmacy hotline prior to seeking medical attention or self-treatment options, including going to the emergency room. You shall call the pharmacy hotline prior to filling any prescriptions or buying any over the counter products. You shall not use any controlled substances or illegal drugs while on the Forensic Diversion Drug Court Program. You shall follow all instructions given to you by the Forensic Diversion Pharmacy Team.



22. You shall have a functional mobile or cell phone, and must be carried and accessible at all times. Your case Manager **MUST** have your current cell phone number and you must report any changes to your cell phone number within 12 hours of that change.
23. Any requested trips outside of Tippecanoe County shall be made to the Forensic Diversion Drug Court Team by filling out the proper travel request form and submitting it within the proper allotted time. The Forensic Diversion Drug Court Case Manager must approve the request and submit said request to the Forensic Diversion Drug Court team as required. . If the request is approved you shall call the appropriate Case Manager's cell phone when leaving the county, arriving at the destination, and arriving back in the county or as instructed.
24. You shall obey all laws and shall not violate any ordinances, infractions, misdemeanor or felony offenses, and you may be terminated from the Program if arrested for or convicted of any ordinances, infractions, misdemeanor or felony offenses.
25. You shall notify your Case Manager immediately if you are arrested or have any contact with law enforcement whether as a suspect, complainant, witness and victim.
26. If required, you shall give a sworn, recorded statement relating fully your knowledge of criminal activity in which you were not involved regardless of the place it occurred, and regarding the instant offense and any non-forcible offenses that you may have committed in or relating to this county. You will not be prosecuted for any non-forcible offenses to which you admit in the statement, and the statement may be entered into evidence in the sentencing hearing. At the option of the Prosecutor, you may be required to pass a polygraph examination given by an examiner selected by the Prosecutor to demonstrate that you have spoken truthfully in all respects in the statement given under paragraph. In the event you fail the polygraph examination, you may be expelled from the Forensic Diversion Drug Court Program. If you are terminated from the Forensic Diversion Drug Court Program, any clean-up statement given may be used against you at any trial or hearing.
27. You shall pay all program fees for the Forensic Diversion Drug Court Program. Delinquency in payment of your fees may result in sanctions and/or termination from the program. You will pay for all drug testing.
28. You shall seek, obtain, and maintain approved employment or volunteer work as deemed appropriate by your Case Manager. You shall not change your employment without notifying and receiving approval from the Forensic Diversion Drug Case Manager.
29. You shall not possess any handgun, rifle, shotgun, switchblade, or any other type of firearm or deadly weapon, as defined by IC 35-41-1-8. You shall turn over to the court any and all gun permits that have been issued to you.
30. You shall dress appropriately when reporting for treatment, Court, or to see your Case Manager. You shall not wear shorts shorter than fingertip length, no tank tops, no halters, no sagging pants or pants with holes in them, and no clothes with any obscenity, or with beer, alcohol, or drug advertisement printed on it. Shoes and shirts shall be worn in the building. If you are not dressed appropriately, you shall not be allowed to check-in for your daily reporting or participate in meetings or sessions until you are dressed appropriately.


31. You shall not verbally or physically abuse the Forensic Diversion Drug Court staff, treatment provider staff, any referral staff members, or any other Forensic Diversion Drug Court Program participants.
32. You shall not associate with anyone, outside of approved Forensic Diversion Drug Court activities, who is currently on parole, probation, awaiting sentencing, currently incarcerated, or is on any other Community Corrections Program, without the approval of the Forensic Diversion Drug Court Program.
33. You shall authorize program personnel and/or treatment providers to provide information to the Forensic Diversion Drug Court Program and your attorney to permit evaluation of your progress in the Program.
34. You shall not serve as a confidential informant for any law enforcement agency while you are a participant in the Forensic Diversion Drug Court Program.
35. You shall be interviewed prior to any Forensic Diversion Drug Court Program phase move and prior to graduation from the Forensic Diversion Drug Court Program. The interviews by Law Enforcement are to determine compliance and completion of the case plan goals
36. You shall not operate any motor vehicle without permission of the Forensic Diversion Drug Court Program staff. You shall not operate a motor vehicle unless you have a valid driver's license, proper vehicle registration and insurance as required by Indiana law. Proof of insurance and valid drivers' license must be kept up to date and on file with your Case Manager at all times.
37. You shall not enter into any contract or agreement, written or otherwise, without the approval of the Forensic Diversion Drug Court Program.
38. You shall not have any persons in your place of residence after curfew without the previous approval of the Forensic Diversion Drug Court Program.
39. You shall create a budget with your Case Manager and cannot make any purchases not in your budget without the approval of the Forensic Diversion Drug Court Program.
40. You shall meet these additional requirements:


- a. \_\_\_\_\_ 
- b. \_\_\_\_\_ 
- c. \_\_\_\_\_ 
- d. \_\_\_\_\_ 
- e. \_\_\_\_\_ 

## Sanctions and Modification of Program


41. Violation of the requirements and rules may result in the Forensic Diversion Drug Court Program modifying your program and imposing sanctions including termination from the program.
42. You shall comply with sanctions that are imposed.
43. You shall pay the fees of any program ordered as a sanction.
44. If you are found to be: A) under the influence of, in possession of, or having ingested a controlled substance or legend drug without permission of the Program or contrary to law, B) in possession of materials to be used to alter, disguise, conceal or falsify a drug screen, or C) if you give a Breathalyzer test resulting in a positive result for the presence of alcohol, sanctions *will* be imposed, including immediate placement in custody. The Forensic Diversion Drug Court Program may increase the sanction upon your next court appearance, or you may be removed from the program after a hearing before the Presiding Judge.
45. If you fail to report for daily check-in, treatment appointments, or any other activity assigned to you by the Forensic Diversion Drug Court Program, you can be charged with the crime of escape under Indiana Code 35-44-3.5.
46. Evidence regarding any Forensic Diversion Drug Court violation shall be admissible in court and will be used against you in any violation proceedings and other prosecutions.
47. In the event you fail to make satisfactory progress in the Program for a period of time up to six (6) months or longer, or at the discretion of the team, you may be terminated from the Forensic Diversion Drug Court Program with the option that you be permitted to re-apply into the Program after the passage of twelve (12) months from the date of termination. A significant factor for readmission would be your participation in any and all mental illness and addictions counseling, therapy, and programs that are available through the Indiana Department of Corrections.
48. Should you be terminated from the Forensic Diversion Drug Court Program for any reason, you agree to abide by the factual findings and final decision of the Forensic Diversion Drug Court team and have the right to waive any due process hearing, and understand that your case shall then be returned to the originating court for sentencing.

I have read the above Participation Agreement and agree to comply with and be bound by its terms and conditions.

\_\_\_\_\_  
Participant's Signature 

\_\_\_\_\_  
Date 

\_\_\_\_\_  
Participant's Attorney's Signature

\_\_\_\_\_  
Date 

\_\_\_\_\_  
Presiding Judge  
Tippecanoe County Forensic Diversion Drug Court Program

\_\_\_\_\_  
Date