

# **MERRIMACK COUNTY DRUG COURT**

## **PARTICIPANT HANDBOOK**

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## Introduction

Dear Prospective Participant,

You are being considered as a potential participant or have already been accepted into the Merrimack County Drug Court (MCDC) Program. The MCDC Team is committed to work with those individuals who choose to participate in the program and who are willing to work toward making healthy lifestyle changes in their recovery.

This handbook is for you to keep. Please take the time to review the handbook, including Appendix D – “Starting Drug Court with a Clean Slate and an Open Mind.” Hopefully it will answer some questions about the program and how the program works. The MCDC Team evaluates the program rules and requirements on a regular basis and this handbook is subject to change when the need arises.

Reading and understanding the expectations of the MCDC Program should help you to decide if the MCDC Program is the right fit for you. This is a challenging program. If you are willing to make the commitment, we think you will find it well worth your effort.

If you have not already been accepted into the program and you have any specific questions or concerns, please direct those questions to your lawyer. If you have already been accepted into the program, please direct questions to the assigned probation officer, case manager or a treatment counselor. We look forward to your participation and success.

Sincerely,

John Kissinger  
Presiding Justice

## **Mission of Merrimack County Drug Court**

The mission of the Merrimack County Drug Court (“MCDC” or “Drug Court”) is to reduce recidivism and enhance community safety by providing participants whose substance use has resulted in criminal behavior with treatment and community supervision. As an alternative to incarceration, this judicially supervised program will provide participants with the opportunity to promote their recovery to reduce crime, restore families, and successfully reintegrate participants into the community.

## **Program Description**

The MCDC provides intensive substance use disorder treatment and community supervision. Key components of the program include substance use treatment and case management; frequent, random drug testing through observed urine screens; frequent status hearings in front of the Drug Court Judge and team to report on compliance and progress; and the use of sanctions and incentives to promote positive behavioral change.

## **Participation in Drug Court**

The Merrimack County Adult Drug Court is a voluntary program for offenders who have met legal eligibility requirements and have been determined to be at high-risk to reoffend and in high-need of substance use disorder treatment through standardized screening tools.

It is important to understand that when you participate in Drug Court, you will be expected to meet all requirements of the Drug Court Program as well as adhere to your treatment plan, and that if you fail to do so, you will be sanctioned. To participate in the MCDC, you must sign the Drug Court Special Acknowledgement and Waiver of Rights Form (see Appendix A). Please take the time to review this handbook and the Acknowledgement and Waiver of Rights carefully with your attorney as you determine whether or not Drug Court is right for you.

To participate in the program, you will be required to authorize Drug Court team members (e.g. your therapist, case manager, and PPO) to share information about you, your treatment, and your progress with other members of the Drug Court team. You will also be required to authorize Drug Court team members (e.g. your therapist, case manager, and PPO) to share and obtain information from collateral treatment, health, and service providers in order to effectively coordinate treatment and services.

## **Drug Court Team Members**

The Drug Court consists of a multi-disciplinary team representing local law enforcement, criminal justice, and substance use treatment organizations. Team members, despite their

unique roles, share the common goal of successful treatment completion and rehabilitation for each participant.

The Drug Court Team meets prior to each Drug Court hearing and reviews each participant's progress in treatment and compliance with program requirements. During this meeting, the team discusses appropriate incentives and/or sanctions to promote compliance and positive behavioral change. At this meeting, team members may also develop plans to address barriers to treatment and promote progress through therapeutic adjustments in treatment, case management service planning, and community supervision efforts. Team members communicate during the week as necessary, to promptly and effectively manage urgent issues that may arise.

*Superior Court Judge* – The Judge presides over the court proceedings and monitors the appropriate application of treatment, community supervision, sanctions and incentives, while maintaining the integrity of the court. The Judge is ultimately responsible for determining and imposing sanctions, including incarceration and/or termination.

*Superior Court Clerk* –The Clerk is responsible for scheduling all legal proceedings such as pleas and status hearings as well as processing all orders of the court.

*County Prosecutor* –The County Prosecutor's role is to promote community safety and ensure that justice is being served. In a collaborative way, the prosecutor monitors participant progress and makes recommendations regarding supervision, incentives and sanctions. The Prosecutor reviews all potential participants for legal eligibility upon referral.

*Public Defender* – The Public Defender's role is to promote the legal rights of participants as well as advocate for the appropriate supervision, incentives, and sanctions to support the participant in his or her recovery and rehabilitation. The Public Defender, as a member of the Drug Court Team, does not represent a participant's stated legal interests in an adversarial way in the courtroom, but rather works in a collaborative manner during staff meetings and court sessions by helping the team take account of the possible interests and legal rights of participants.

*Probation/Parole Officer* – The PPO is responsible for community supervision of participants and monitoring their compliance with Drug Court and probation requirements. The PPO works in a collaborative manner with the team and makes recommendations regarding treatment, incentives and sanctions.

*Representative from Merrimack County House of Corrections* – The representative from the Merrimack County House of Corrections serves as a liaison between the Drug Court team and the jail staff regarding the needs, behavior and comportment of participants who are incarcerated due to sanction, new arrests, and/or violations of probation. The representative also assists with facilitating incarcerated participants' participation in drug testing and other

programs (e.g. Medication Assisted Treatment) to help prepare incarcerated participants to be successful upon release.

*Police Officers* – The Police Officers are liaisons between the Drug Court and their respective departments. They are responsible for disseminating information to their colleagues to support officers and participants in home visits and curfew checks as well as non-planned contacts. The police also provide important information to the Drug Court team regarding community and policing issues that could potentially impact the progress of any participant.

*Treatment provider(s)* – Therapists are responsible for providing assessment and treatment planning to participants as well as facilitating Intensive Outpatient Treatment, other substance abuse groups, individual therapy and Medically Assisted Treatment (MAT). Therapists provide assessment and referral to substance-use and mental health services not provided directly through the Drug Court such as inpatient treatment, partial hospitalization, psychopharmacological evaluation and psychological evaluation. The Therapist provides information and updates to the rest of the Drug Court team regarding a participant's substance use treatment needs, mental health concerns, and adherence to treatment.

*Case Manager (s)* – The Case Manager works in a collaborative way with the participant and the treatment providers to provide assessment and service-planning to support participants in their treatment and their long-term recovery. The Case Manager provides referral and linkages to other services and agencies in the community such as social services, housing, medical services, and educational programs. The Case Manager provides information and updates to the rest of the Drug Court team regarding the participants' compliance with program rules, their overall progress toward goals, and any barriers they face.

*Coordinator* – The Coordinator, under the supervision of the Judge, is responsible for overseeing the Drug Court program, to ensure the program provides high-quality services in accordance with empirically-determined best practice standards for Drug Courts and meets the requirements of grantors and contracts. The Coordinator also acts as a liaison with the Drug Court Steering Committee, once it is formed, to help engage the larger community in supporting Drug Court.

*Steering Committee* – The Steering Committee is a group of community members who engage the larger community in supporting the Drug Court through outreach and education.

*Recovery Coach*- The recovery coach serves as a support and mentor for the Drug Court participant. He or she may work with participants in individual and group settings to provide guidance on the pathway to recovery. The Recovery Coach relies on their training as well as their lived experience to promote empathy and understanding with participants and the Drug Court Team.

## **Supervision**

In order to be admitted into Drug Court, you will be sentenced to probation or parole supervision. You will be required to meet the conditions of your probation or parole supervision including but not limited to: remaining on good behavior (avoiding committing any local, state, or federal crimes), meeting curfews; obtaining any permissions needed from your PPO for housing, travel, or work; attending all scheduled meetings with your PPO; and the payment of any restitution, fines, or fees as ordered by the Court. Upon pleading into Drug Court, you must report directly to the Probation and Parole office at 314 North State St. Concord, NH.

Your PPO will conduct both scheduled and unannounced home visits to provide accountability for you as well as to assess your living environment so that the team can help you to address any issues that could potentially impact your recovery and rehabilitation. Local Police Departments provide additional supports by conducting curfew checks.

## **Treatment**

All treatment will take place at 42 Pleasant Street in Concord, NH. You will be assigned a Therapist from Riverbend's CHOICES program. Your therapist will meet with you individually for assessment, treatment planning, and therapy. In addition, you will immediately begin participating in the Intensive Outpatient Program (IOP), which meets three times per week. This program utilizes a specialized curriculum that has been designed to provide treatment to individuals with substance use disorders who are at high risk to engage in continued criminal behavior.

As you make progress toward your individualized treatment plan goals, you will "step down" to treatment groups that meet less frequently and are designed to focus on the skills and changes needed for long-term recovery and rehabilitation. As part of your treatment plan, you may also participate in additional therapies including but not limited to psychopharmacological evaluation, Medication Assisted Treatment, behavior modification, or mental health treatment.

It is important to understand that you may require more intensive treatment than IOP if you experience continued active use or a prolonged relapse. If your therapist makes the assessment that a higher level of care is necessary to help you obtain sobriety, then you will be required to complete an application, be admitted to an inpatient treatment program, and meaningfully participate and successfully complete that program.

Failure to adhere to treatment recommendations, including referral to Inpatient Residential Treatment or compliance with their program rules, can result in sanctions as well as jeopardize your continued participation in Drug Court.

## **Case Management**

You will be assigned a Case Manager from Riverbend. Your Case Manager will meet with you individually for assessment and service planning. Initially, you and your Case Manager will work to address and resolve issues that could present barriers to your engagement in treatment such as housing instability, medical issues, child care and children's needs, etc. As you make progress, you and your Case Manager will begin focusing on addressing long-term goals that support your continued recovery and rehabilitation such as education, work, financial management, and permanent housing.

As with treatment, you are expected to adhere to your service plan.

## **Court Hearings**

Drug Court is held every Monday at 1 p.m. at 5 Court Street, Concord NH. As a Drug Court participant, you will be required to appear in court on a regular basis. The frequency of your appearances will depend on the Drug Court Phase you are in and your compliance with Drug Court rules. Initially, you will be required to attend on a weekly basis.

During hearings, you will stand at the podium before the Judge to discuss your compliance with Drug Court rules and your progress toward your treatment goals. The judge will provide encouragement and constructive feedback, issuing incentives for positive behaviors and sanctions for failing to comply with rules or adhere to treatment.

Please demonstrate your respect for court by dressing appropriately, using appropriate language, avoiding conversation with others, avoiding gum chewing, and turning off your cell phone.

Drug Court is open to the public. We encourage you to invite members of your support network to court to understand your participation in this program, recognize your progress, and support you.

## **Program Phases**

The MCDC has 5 Phases and a Continuing Care phase that you must complete in order to successfully graduate from Drug Court. Each Phase has objectives that you must meet in order to move to the next Phase. Early phases focus on substance use treatment and addressing issues in your life that can interfere with treatment such as unstable housing, child care, or mental health issues. Middle phases focus heavily on treatment to address substance use and criminal behaviors. Later phases focus heavily on developing the foundations and supports you need in your life to be successful in long-term recovery.



The time spent in each phase depends on how quickly you are able to meet the required objectives. The times listed by each phase are general guidelines – the time may be longer than indicated or may be shortened if there is significant progress. The objectives of each phase are subject to change at the discretion of the MCDC Team.

In order to be promoted to the next phase, you must complete a Phase Promotion Petition for the Drug Court Team to review. The Phase Promotion Petition gives you an opportunity to share your accomplishments in meeting the objectives of that phase and also helps you to think about what you must accomplish during the next phase. If the Drug Court team reviews your Petition but determines that you have not yet met the objectives of the phase, you will be provided with helpful feedback about what you should focus on in order to be promoted. Your Case Manager is always available to help you complete the Petition.

**Phase I (minimum 30 days)**

The focus of Phase I is stabilizing into Drug Court. You will work on addressing issues that impact your engagement in treatment. In order to advance to the next phase, you must meet the following objectives:

1. Demonstrate compliance with treatment (e.g. attending treatment appointments on time and following your treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfew, etc.)
3. Have a transportation plan to ensure that you will be able to attend treatment and other necessary appointments
4. Demonstrate honesty about any substance use
5. Have safe housing (even if temporary)
6. Resolve any issues that negatively impact your ability to participate in treatment (e.g. child care, emergency medical issues, etc.)
7. Set initial treatment goals with your therapist
8. Complete 2 releases of information for whoever you identify as your biggest supports.
9. Have obtained or are on a waitlist to have a Primary Care Physician
10. Completed the Social Functioning Survey with your case manager (information should be based upon when you start the Drug Court program).
11. Have a valid government ID.
12. Update treatment plan with your clinician
13. Establish a minimum of 14 consecutive days of drug screening compliance at the time of phase advancement

**Phase II (minimum 90 days)**

The focus of Phase II is engaging and adhering to treatment. In order to advance to the next phase, you must meet the following objectives:

1. Demonstrate compliance with treatment (e.g. attending treatment on time, participating actively in groups and therapy, and following treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfew, program fees, etc.)
3. Demonstrate honesty about drug use, risky behaviors, and activities.
4. Begin attending a minimum of one Peer Support or Recovery Support group (e.g. AA, NA, HA, Smart Recovery, etc.) per week. (note: you don't need to attend the same meeting each week, you can explore different meetings and groups).
5. Meet with probation to develop a payment plan regarding any payment towards restitution, supervision fees or fines.
6. Complete a resume
7. Update treatment plan with your clinician
8. Have safe, stable housing.
9. Establish a minimum of 30 consecutive days of drug screening compliance at the time of phase advancement

**Phase III (minimum 90 days):**

The focus of Phase III is engaging in treatment and beginning to develop a strong foundation of positive, safe relationships and prosocial activities in your life to support your recovery. To advance to the next phase, you must meet the following objectives:

1. Demonstrate compliance with treatment (e.g. attending treatment on time, participating actively in groups and therapy, developing treatment goals with your therapist, and following your treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfew, program fees, etc.)
3. Begin making restitution/supervision payments as based on the agreed upon payment plan from Phase II
4. Demonstrate honesty about substance use, risky behaviors, and activities.
5. Start to form a recovery support network, including attending Peer Support or Recovery Support Meetings.
6. Demonstrate honesty about substance use, risky behaviors, and activities.
7. Gain employment
8. Update treatment plan with your clinician
9. Establish a minimum of 45 consecutive days of drug screening compliance at the time of phase advancement

**Phase IV (minimum 90 days):**

The focus of Phase IV is engaging in treatment and continuing to strengthen the foundation of positive, safe relationships and prosocial activities in your life to support your recovery.

1. Demonstrate compliance with treatment (e.g. attending treatment on time, participating actively in groups and therapy, developing treatment goals with your therapist, and following your treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfew, program fees, etc.)
3. Demonstrate compliance in your agreed upon payment plan toward any restitution or court fines.
4. Demonstrate honesty about substance use, risky behaviors, and activities.
5. Engage with an established recovery support network, which includes both recovery support and prosocial activities.
6. Make progress toward personal goals important to your recovery in areas such as education/career, family, housing, financial management, health/medical, etc.
7. Submit a plan for your Give Back Project and have that plan approved by the Drug Court Team. "Give Back Project" can take many forms, but it is designed to help support newer participants engage in the program and develop the skills and support networks necessary for recovery. Examples of "giving back" include but are not limited to: co-facilitating Relapse Prevention or other groups, accompanying new participants to peer/recovery support meetings, or helping to organize sober, prosocial activities for the Drug Court.
8. Been employed and worked for a minimum of 10 hours per week for six weeks.
9. Update your treatment plan with your clinician
10. Establish a minimum of 60 consecutive days of drug screening compliance at the time of phase advancement

**Phase V (minimum 90 days):**

The focus of Phase V about maintenance of your recovery. This is the final phase of Drug Court before entering into the continuing care phase, in order to move on you need to complete the following:

1. Demonstrate compliance with treatment (e.g. attending treatment on time, participating actively in groups and therapy, developing treatment goals with your therapist, and following your treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfew, program fees, etc.)
3. Demonstrate compliance with your agreed upon payment plan toward any restitution or court fines.
4. Demonstrate honesty about substance use, risky behaviors, and activities.
5. Engage with an established recovery support network, which includes both recovery support and pro-social activities.
6. Make progress toward personal goals important to your recovery in areas such as education/career, family, housing, financial management, health/medical, etc.
7. Work on Give Back Project and complete before graduation.

8. Work or volunteer for a minimum of 20 hours per week for at least 8 weeks prior to graduation.
9. Complete the Social Functioning Survey with your case manager.
10. Pay your \$100 Drug Court fee. Community service can be done at a rate of 1 hour= \$10. There are also opportunities for you to use incentives earned towards your drug court fee.
11. Update your treatment plan with your clinician
12. Must attend at least one alumni group before moving up in phases
13. Develop an Aftercare Plan that is approved by treatment for post-graduation. This aftercare plan should be done with your treatment provider, but should be facilitated by you. The aftercare plan needs to be signed off on by treatment.
14. Establish a minimum of 90 consecutive days of drug test compliance at the time of phase advancement

***Continuing Care Phase (minimum 5 months):***

The focus of the continuing care phase is to bridge the gap between being in drug court-an extremely structured environment-to graduating the program and creating that structure and motivation for yourself, as well as maintaining your treatment regimen to maintain your recovery. This is the final phase you will need to complete in order to graduate. You will need to complete the following:

1. Demonstrate compliance with treatment (e.g. attending treatment on time, participating actively in therapy, developing treatment goals with your therapist, and following your treatment plan including referrals to outside services, etc.)
2. Demonstrate responsibility in meeting program rules and obligations (e.g. curfews, etc.)
3. Demonstrate compliance with your agreed upon payment plan toward restitution
4. Demonstrate honesty about substance use, risky behaviors, and activities
5. Engage with an established recovery support network, which includes both recovery support and pro-social activities
6. Continue making progress toward personal goals important to your recovery in areas such as education, career, family, housing, financial management, health/medical, etc.
7. Continue working at least 20 hours per week
8. Treatment level is to be determined by the clinical team during this phase
9. You will have the option of attending alumni group which is held on a weekly basis
10. Attend individual appointments with your clinician at least bi-weekly
11. You will be assigned a new color in the color system (this will be considered a “step down color” in frequency) and be expected to continue to attend drug testing as your color is called and remain abstinent from drugs and alcohol
12. Continue to comply with probation/parole
13. Should you happen to have a relapse/set back during this phase, your appropriate treatment level will be reassessed by your clinician and the clinical team and you will be expected to follow through with that recommendation

14. Establish a minimum of 90 consecutive days of drug test compliance at the time of graduation
15. You are NOT required to go to court during this phase. You could be asked to attend court by probation in lieu of a violation of probation should your behavior/actions deem this appropriate

## **Incentives and Sanctions**

We know that changing behavior can be difficult and so we want to support you in taking the actions needed that will lead to recovery and rehabilitation. Incentives are used as a way to support and reinforce positive behaviors that allow you to make progress toward goals. Incentives include such things as positive feedback from the Judge or the team, applause from your peers, and small tangible rewards such as chips or gift cards. Phase promotions, which are associated with more privileges such as later curfews, etc., are also incentives.

Similarly, sanctions are used to discourage negative or risky behaviors. When you fail to comply with rules or engage in a negative or risky behavior, you can expect to receive a sanction to discourage such behaviors. Incentives and sanctions are issued by the Judge, with recommendations from the Team. The final decision regarding incentives and sanctions will be at the discretion of the Judge.

Sanctions include such things as admonishment from the judge, written essay assignments, or an increase in community service or reporting requirements. It is important to understand that sanctions may also include being held temporarily in custody.

By agreeing to participate in Drug Court, you waive the right to a prompt hearing. It is important to understand that you may be held in custody until the next drug court hearing and that the court will not schedule a separate bail hearing. Specifically, you agree to waive a prompt bail hearing and may be held up to 7 days before being heard at the next drug court session. In very limited situations, you may be sanctioned in excess of 7 days. In those cases you will be entitled to a hearing with counsel appointed to represent you.

Healthy recovery choices/behaviors that will result in incentives include (but are not limited to):

- Progressing between phases of drug court program
- Progressing between phases of treatment
- One week of negative urine screens
- One week of positive program compliance
- Obtaining sobriety milestones (30, 60, 90 days, etc.)
- Obtaining employment
- Continued positive program compliance
- Locating appropriate housing
- Completing educational program

Incentives for healthy recovery choices/behaviors may include (but are not limited to):

- Applause/Recognition
- Being heard first in court
- Being allowed to leave court early
- Reduction in community service hours
- Reduction in reporting requirements
- Gas/phone/necessities gift card
- Reduction in fees
- Raffle Ticket
- Release from electronic monitoring
- Verbal praise for sober time
- Decrease in reporting to court
- Phase advancement / certificate
- Reduction of court fees, fines, and waiver of supervision fee
- Cut to the front of UA line
- Dollar Voucher (to redeem prizes)
- Reduction in Sanction
- Lunch- staffs treat
- Leave Court early

This list will be modified periodically upon agreement of the team. It is not meant to be exhaustive.

High-risk choices/behaviors that will result in sanctions include (but are not limited to):

- Missing treatment appointment, case management, self-help meeting, probation appointment or any other court ordered appointment
- Missing court session
- Missing Drug and alcohol Testing
- Arriving late for court
- Failing to produce self-help meeting verification
- Failing to pay fines/fees/restitution/perform community service hours
- Lying, dishonesty
- Repeated positive drug and alcohol tests that indicate a pattern of use
- Associating with other offenders with exceptions for group meetings or HCDC related activities
- Violating conditions of probation
- Re-arrest for a new offense

This list will be modified periodically upon agreement of the team. It is not meant to be exhaustive.

Sanctions for high-risk choices/behaviors may include (but are not limited to):

- Verbal warning
- Essay (gear topics towards infractions)
- Greeter at treatment (Make coffee and clean up)
- Report to treatment early
- Report to court early
- Community Service
- Interview people in recovery (we can provide interviewee and questions)
- Run a group (treatment chooses topic)
- Day in court
- Call every morning to ask about daily obligations
- Send location to case management via phone
- Complete \_\_\_ job applications
- Daily reporting to treatment
- Daily reporting to probation
- Meet w/ Coordinator to review handbook
- House arrest
- Electronic monitoring
- Jail
- Care and concern meeting with treatment
- Care and concern meeting with treatment and probation
- Speak with defense attorney (i.e. About sentence if terminated from drug court)
- Argue against termination meeting (if termination has been raised, create 5 SMART goals that must be met)

This list will be modified periodically upon agreement of the team. It is not meant to be exhaustive. **All sanctions must be completed, and if applicable proof turned into case management by 11am the following Monday. Turning in essays, proof of community service, etc. during court will not be accepted.**

#### Contested Hearing When Jail Sanction is Likely

Drug Court participants do not waive every right when they enter into the Drug Court program. One of those rights is the right to a contested hearing when a violation of the rules of Drug Court could result in a jail sanction. This means that you can contest the evidence supporting the violation, if you deny you violated the rules of the program.

The hearing will be brief and will be held during or at the end of the regular Drug Court session. Prior to the hearing you will be notified (either verbally or in writing) of the conduct you engaged in that was a violation of the rules of Drug Court. The defense attorney team member (or designee) will represent you, and the prosecutor team member (or designee) will represent the state during the hearing. The hearing will be limited in nature and will in most instances proceed by offer of proof, meaning that witnesses will not be required to testify.

## Communication with the Team

It is important you are open and honest with the team at all times. This program cannot be effective unless the team understands what is going on with you. When you are honest about use, struggles, and challenges, then we can work with you on a plan to address the issues. Because of the importance of honesty, please understand that your sanction for a negative behavior will always be greater if you are dishonest about the situation.

It is important that you reach out to your team for support if you feel an urge to use. If you use drugs or alcohol, we expect you to reach out and notify your therapist or Case Manager when you first have contact with them but no later than 12 hours after use. This may mean that you report your use in group, treatment, case management, or that you actively reach out to report by phone or text if you would not otherwise be meeting. By reaching out early, we can help support you in developing a plan to avoid continued relapse. When participants wait longer to admit use, they place themselves at risk for continued relapse. In addition, by not disclosing use in a timely fashion, it gives the appearance that a participant may be acting dishonestly in an attempt to avoid “getting caught”. Prior to any drug and alcohol test, you are required to indicate in writing any use of prescription, OTC, or illicit drugs or alcohol within the last 14 days.

### Police Contact

If you have police contact of any kind, you must report the contact immediately by phone to your PPO and your Case Manager.

You must keep the Court, your PPO, Case Manager, and Therapist informed of your current address and phone number at all times.

Part of Drug Court will involve police doing address/curfew checks. Not engaging with the officer, not answering your door or being disrespectful/uncooperative with the officer will result in a failed or non-compliant curfew check. Sanctions will be imposed.

### Texting and Emailing

Many participants choose to communicate by text or email. When texting or emailing, please keep in mind that they are not secure, confidential ways to communicate. Avoid using texts or emails to communicate sensitive or personal information. Texts are better used for coordinating logistics – for example, scheduling a meeting or time to talk in person. **Please note that your texts and emails may not be received or returned immediately, especially outside of normal business hours.** For this reason, we expect you to *plan ahead*.

## Emergency Situations

Therapists and Case Managers often may give you their cell phone number to facilitate communication. **However, it is important to understand that your voicemail or text message**



**may not be received or returned immediately, especially outside of normal business hours.** Because of this, it is important that you *plan ahead* to give your team sufficient time to respond to your requests. **In any mental health emergency, contact Riverbend Community Mental Health's 24-Hour Emergency Line at 1-844-743-5748 and for a medical emergency, call 911. The Addiction Crisis Line is 1 (844) 711-4357.**

## **Drug and Alcohol Testing**

You will be assigned a color upon entry into the program. You will be notified via phone call, text message and email by our color system if you were randomly selected for testing that day.

These notifications are a courtesy feature of the color system. **If you do not receive a notification, it is your responsibility to dial into the phone system at 617-766-0633 to check if your color was called.**

**Weekday Testing (Monday through Friday) at Riverbend 42 Pleasant St. Concord NH from 8-11am**

**Weekends/Holidays at Riverbend 42 Pleasant St. Concord NH from 9-10:45am**

Throughout your participation in Drug Court, you will be required to participate in drug and alcohol testing. You will be tested on a random basis, several times per week, and you can expect to be tested on weekends and holidays in addition to weekdays. **On any given day, you may be directed to test by a Drug Court team member even if your color has not been selected for testing that day.**

For testing, you will be required to provide a urine sample. You will be observed when providing a sample to ensure that there is no tampering with the sample. There may be occasions when Drug Court team members will ask you to submit to breathalyzer testing or oral swabs in place of or in addition to providing a urine sample. You are required to follow their instructions to ensure the validity of the results.

If your color is selected, you must report for testing, between 8 am and 11:00 am, Monday – Friday. Trained staff will monitor the sample collection. You will be provided instructions on how to provide a sample by the monitor and will be expected to follow those instructions.

If a monitor suspects that a sample has been tampered, substituted, or adulterated, he or she may give additional instructions in order to verify that the sample is legitimate. We have also instructed the monitor to document, in writing, any observations leading them to believe a sample is not legitimate as well as any failures to comply with directions.

Please be patient, cooperative and respectful when working with the monitors. Disrespectful or abusive behavior will not be tolerated and will result in a sanction. If you encounter any concerns when working with a monitor, you should speak to the Drug Court Coordinator about the issue.

Prior to any drug and alcohol test, you are required to indicate in writing any use of prescription, OTC, or illicit drugs or alcohol within the last 14 days; the monitors will collect the Testing Disclosure Form to pass along to Drug Court team members. It is your responsibility to seek out your treatment team, in a timely fashion, regardless of whether your color is called to report any use AND then to document it prior to a drug test.

The Drug Court team will consider accommodations in the testing schedule ONLY for verifiable and valid reasons such as a work conflict or medical emergency. If you are considering a work schedule those conflicts with scheduled testing hours, you must obtain approval from the Drug Court team and pre-plan with your Case Manager as to how you will meet your testing obligations. You must obtain approval, 48 hours in advance, from your Case Manager to test at an alternate time due to a conflict. The Drug Court team reserves the right to deny any request for accommodation due to scheduling.

Prescription and Over-The-Counter (OTC) medications may impact test results. For this reason, you must report any medication prescribed by a doctor and provide written documentation of this to both your therapist and Case Manager as well as abide by the OTC Medication Agreement Form (Appendix C). Failure to do so could mean that you could be sanctioned for a positive test.

Falsifying or tampering with a test is prohibited. We test for indicators that a sample has been diluted or adulterated. In addition to positive tests, the following situations are considered positive results:

- *Dilution* – Adding liquid to the sample or drinking excessive amounts of water to achieve a drug concentration below the threshold. Because there is no way to determine whether a dilution is intentional or accidental, and because research shows that the majority of dilutions are, in fact, intentional, we consider all dilutions to be positive tests. To avoid unintentional dilutions, avoid drinking excessive amounts of water or other beverages before testing.
- *Adulteration* – Adding a chemical masking agent to the urine to inhibit the testing procedure
- *Substitution* – Replacing your urine sample with an alternative sample.
- Failing to test, missing a test, or testing late.
- Failure to follow instructions by monitor to ensure the validity of the sample or test.
- Refusal to produce a sample or inability to produce a sample after 60 minutes.
- Inability to produce a sample of sufficient quantity for testing.
- Positive test results due to the ingestion of prohibited OTC medication or poppy seeds, kombucha or other fermented drinks/foods

Note regarding Dilute, Missed, or Late Tests: Diluted, missed, or late tests are considered positive tests and will generally result in a “reset” of a sober date, particularly in early Phases of the Program. The team reserves the right to consider the specific circumstances associated

with a diluted, missed, or late test when evaluating a participant's sober time if a participant is otherwise eligible for Phase Promotion or graduation and if the circumstances indicate that there could be a valid reason for the diluted, missed, or late test.

If you dispute the results of a screening test, you can request a confirmation test. Should the test confirm the positive results, you may be responsible for paying any associated lab fees and you may receive sanctions for dishonesty.

## Health Insurance

As a Drug Court participant, you are required to make your best effort to have health insurance in order to make sure that your medical, mental health, and substance abuse treatment needs can be adequately addressed. Your Case Manager will work with you to obtain coverage if you do not currently have insurance. You must notify the drug court of any changes to your insurance. Any mail from your insurance company should be brought to your next Case Management meeting so that you can make sure any issues are dealt with promptly to avoid losing your insurance.

## Drug Court Rules

As a Drug Court participant, you are required to abide by the following rules. Failure to abide by these rules may result in sanctions, up to and including termination.

### I. Substance Use

- 1. You are required to completely abstain from the use of alcohol and any controlled drugs, including synthetic substances. You are prohibited from selling, possessing, distributing, transporting or being in the presence of any controlled drugs, including synthetic substances.** CBD products and Kratom are among those of banned substances. You are prohibited from possessing any alcohol.
2. You are required to comply with drug and alcohol testing and the rules around drug testing. *(See Section on Drug and Alcohol testing for more information on this.)*
3. If you are in need of a specific type of service (i.e. MAT, psych meds, individual counseling, groups, psychiatrist, mental health treatment, etc.) and can get that service through Riverbend you are required to participate through Riverbend rather than an outside agency/entity to ensure continuity of care amongst your treatment team
4. You are required to inform all your doctors, medical providers, dentists, emergency medical providers etc. that:
  - You have a substance use disorder.
  - You are involved in the Merrimack County Drug Court.

- You should not take any narcotic medication due to your substance use disorder and your participation in the Drug Court.
- You authorize your medical/health care/social service providers to communicate about treatment with the applicable members of the Drug Court team (Therapists, Case Managers, and PPO) to coordinate care. Note: you must sign a written Release of Information with the provider.

**If you have a doctor, dentist, psychiatry etc. appointment please see case management to obtain a medical provider form. This form summarizes the information above and a signature from the provider is requested as proof that they are aware of your Drug Court and recovery status.**

5. All non-emergency narcotic, benzodiazepine, amphetamine or gabapentin prescriptions must be pre-approved by your therapist, probation officer or case manager before being filled. A release must be on file for the prescriber, and proof that they are aware of your substance use recovery and drug court status must also be provided.
6. You must review and abide by the Over-the-Counter (OTC) Medication Agreement Form (see Appendix C) to avoid taking any over-the-counter products that can be misused or interfere with drug testing results. If you have any questions regarding OTC medication, you must speak with your treatment team in advance.
7. You are required to be upfront and honest about any alcohol or substance use that you engage in. This means being proactive and reaching out to your therapist and/or Case Manager to let them know of any relapse. By being honest and upfront, team members and peers can help you develop a stronger plan to avoid relapses in the future.
8. Medicinal Marijuana is not permitted in Drug Court. This is because research is not sufficient at this time to say that medicinal marijuana is helpful for *individuals with severe substance use disorders*. Research is ongoing and Drug Court treatment staff are aware of current research and recommendations. At this time it is not permitted because it is not considered evidenced based or best practice for individuals with severe substance use disorders.
9. Definition of Relapse. It is important to understand that a relapse is not just considered to be use of your drug of choice. A relapse is (1) use of any illicit substance (2) use of any prescription without proper communication with the Drug Court team (3) use of any OTC medications in Appendix C (4) improper use of any prescribed medications- such as injecting a medication that should be taken orally or not taking as prescribed (5) Any use of legal substances that are not permitted, including but not limited to Kratom, CBD, alcohol, medicinal marijuana, etc. (5) Any drug test that is positive, dilute or suspected to be tampered would be considered a relapse and a reset of your sobriety date.

## II. Residency and Living Arrangements

1. You **must** maintain permanent residency within the jurisdiction of the Merrimack County Superior Court while participating in Drug Court.
2. Your living situation and residence must be approved by your PPO and the Drug Court Team in advance, this includes have an approved address prior to starting drug court.
3. You must be in your home by your assigned curfew. Unless otherwise instructed, curfews are as follows:

Phase I – 9:00 p.m.- 6:00 a.m.

Phase II – 10:00 p.m. - 6:00 a.m.

Phase III – 11:00 p.m. - 6:00 a.m.

Phase IV – 12:00 a.m. - 6:00 a.m.

Phase V- 12:00 a.m.- 6:00 a.m.

4. You must obtain prior permission from your Probation Officer to spend an overnight elsewhere. You must provide your PPO with the name and address of those you wish to stay with.
5. You are not permitted to travel outside of New Hampshire without prior permission from your PPO.

## III. Association with other Drug Court participants

1. You are prohibited from associating or socializing with other Drug Court participants outside of drug court events (e.g. court or group) unless you have obtained prior permission from the Drug Court team. The purpose of this rule is to encourage participants to remain focused on their own progress and needs while in treatment and, especially in the early stages of recovery, to avoid putting themselves in potentially risky situations.
2. You are not allowed to stay or live with another Drug Court participant except under very specific circumstances (e.g. emergency shelters, sober living houses) as approved by the Drug Court team.
3. If you are related to or were involved in a past relationship with another Drug Court participant, you must inform the Drug Court team.

4. You are prohibited from engaging in an intimate relationship with another Drug Court participant except under very specific circumstances (e.g. co-parenting relationships) as approved by the Drug Court team.
5. You are not allowed to obtain a ride from or with another Drug Court participant, including to or from MCDC program functions such as court, treatment, drug and alcohol testing, or self-help meetings, unless you have prior permission from the Drug Court team specific to that situation.
6. You are not allowed to work with or for another Drug Court participant without prior authorization from the Drug Court Team.
7. You are not allowed to sell, buy, trade, or barter items with another Drug Court participant.

#### IV. Treatment

1. You are required to participate actively in treatment and adhere to your treatment plan.
2. You are required to attend your treatment and case management sessions, groups, or other treatment requirements as scheduled and be on time. If you need to reschedule an individual treatment or case management session due to an emergency or other unavoidable issue, you must provide 24 hour advanced notice. Rescheduling is at the discretion of the staff member based on their schedule, and the team will determine whether the reason for rescheduling is valid. Group sessions cannot be rescheduled.
3. You are required to complete all homework assignments by deadlines given.
4. You are expected to be respectful of peers and treatment providers to ensure a safe, supportive environment for all. Abusive or threatening language or behavior is prohibited.

#### V. Other

1. You are required to pay fines and restitution as ordered by the court. You are required to pay a fee of \$100 no later than graduation and as you are able. Community service (approved in advance by case management) can be done to pay all or a portion of your drug court fee at a rate of \$10 for every one hour. There are also incentives that you may qualify for that waive a certain amount of your drug court fee.

## **Positive Conflict Resolution**

At times, you may disagree with a plan or how a particular situation has been managed by the Drug Court. We encourage you to speak directly with the team or to your defense lawyer, therapist, case manager or probation officer to discuss the situation. We believe that by discussing concerns directly, you will have an opportunity to develop a stronger working relationship with team members. We know that it isn't always easy to discuss issues that may involve strong emotions; if you feel uncomfortable speaking directly with the team member involved, you can ask that a team member who is not involved in the issue attend the conversation.

If you remain dissatisfied following the discussion, you should follow the policies and procedures outlined by that team member's organization/employer to address the issue.

### **Care and Concern Meetings**

If you are showing a pattern of failing to follow program rules or if you are not making progress in your treatment, members of the Drug Court team may meet with you to discuss the concerns in an effort to help you succeed. Whenever appropriate, the team will use a graduated process to address concerns:

**Step One – (Care and Concern Meeting)** The Therapist, Case Manager, and/or PPO, Coordinator will meet with you to discuss the concerns, establish expectations and develop a plan to move forward.

**Step Two – (Termination Track Meeting)** In addition to the therapist, the Case Manager, and the PPO, additional team members, including the Coordinator, will meet with you to provide additional feedback and to reinforce expectations and review/modify the plan as necessary.

**Step Three – (Full Team Termination Meeting)** The Drug Court team, excluding the Presiding Judge, will meet with you to provide additional feedback and reinforce the expectations and plan. In the case of the Step Three meeting, the participant will be notified, in writing, of the meeting by the Coordinator and you will be assigned counsel to support and represent you at this meeting.

**Step Four- (Pending VOP/Charges)** If PPO violates your probation or you have additional charges pending you may be held in Merrimack County Department of Corrections while awaiting resolution of those charges, or you may be facing termination due to these charges. Please keep in mind that you do not necessarily need to have gone through the 3 previous steps for this to happen. The drug court team and/or your attorney may advise you to participate and complete the treatment portion of the SOAR program that takes place inside MCDOC while you are awaiting resolution on your charges or serving a setback, which could potentially allow you the chance to continue in the Drug Court program.

The purpose of the participant meeting outside of the regular court session with members of Drug Court Team (and with counsel in a Step Three Meeting) is to encourage a full and frank discussion of the situation in an attempt to help you be successful. In order to facilitate this discussion, these meetings must be confidential so that the team and the participant must be able to disclose information in the meeting without fear that such information will later be used at a termination hearing (on a violation of probation or a motion to impose original sentence). By participating in such a meeting the team agrees that statements or other information disclosed in the meeting will generally not be admissible in a future proceeding. Your behavior, including failure to follow Drug Court rules, both before and after such meeting, may however, be admissible in a future proceeding.

This graduated intervention is designed to be a courtesy to help you recommit yourself to the program if you are struggling. However, based on the circumstances of the non-compliance, the team may not necessarily follow the process as outlined.

## Termination from Drug Court

Warrants, new arrests, and/or convictions, or a violation of any aspect of your treatment plan, case plan, and rules of probation and/or parole supervision may result in termination from the Drug Court.

Other violations, which *could* result in termination, include the following:

- Refusal of substance use disorder treatment or voluntary withdrawal from the program. **Note:** Part of your treatment plan, case plan, and rules of probation and/or parole may require you to participate in inpatient treatment. Failure to comply with the requirements of the recommended level of treatment and the rules of treatment providers may result in termination.
- Refusal or failure to give consent to the release of information or the withdrawal of any release of information to outside providers of substance abuse treatment, mental health treatment, or other ancillary services.
- Lying or dishonesty
- Positive drug or alcohol tests
- Failure to comply with the drug/alcohol testing policy, housing policy, or any court order
- Any illegal activity, even if not arrested
- Falsifying or attempting to alter urine tests



- Use of any synthetic substances
- Violence or the threatened use of violence directed at anyone
- Attempts to encourage or support drug and alcohol use by other participants.
- Repeated non-compliance with Drug Court rules

Other violations, which **will** result in termination, include the following:

- A new arrest/conviction of an offense that is defined as a “violent” offense. A definition of a violent offense is defined in Appendix D.
- Any attempt to sell or facilitate the sale of drugs or medications.

The final decision to terminate a participant from Drug Court will be at the discretion of a Judge after an evidentiary hearing on either a Violation of Probation or a Motion to Impose Your Suspended Sentence. Should you face termination, you have the right to have an attorney represent you at this hearing as well as the right to choose to have the hearing held by the judge presiding over the Drug Court team or an alternate judge.

## **Graduation**

To apply to graduate you should ask your case manager for a “Petition to Graduate Form.” Some important things to consider for graduation include:

- The team needs adequate time to review your graduation application. For it to be thoroughly reviewed and discussed may take weeks. Please plan ahead by submitting your application in advance if you are concerned about this delaying your completion.
- It is possible to have completed all the tasks on the Petition to Graduate, and still not be approved to graduate. For example, some things that may not be on the Petition that could be considered by the team is conduct which includes behavior at Drug Court treatment as well as in the community.
- There are two ‘steps’ to graduation to consider. When you file a Petition to Graduate, and it is approved, you have completed/graduated drug court. However, an actual Drug Court Graduation Ceremony would be offered at a later date. This ceremony is a formal recognition of your accomplishments. Please understand that once you complete Drug Court, the Drug Court team reserves the right to not include you in the ceremony if there is serious concern with your conduct in the community post-graduation. This could include, but is not limited to, active use and new criminal activity.

- Lastly, depending on your sentence coming into Drug Court, it is likely that you will still have time on probation to serve even after graduating Drug Court. Your probation officer will still enforce all the terms and conditions of probation, and may have requirements for you even after your drug court graduation. These requirements are determined by the probation officer on a case by case basis, but they could include enforcing treatment recommendations, drug testing, and other requirements as deemed appropriate by your PPO. If you have questions about what obligations you may have from probation after graduating drug court, you should consult with your probation officer.

## **Additional Information**

This handbook outlines the basic principles, protocols and procedures of the Merrimack County Drug Court Program. Should you have any questions along the way, please be sure to ask the appropriate Team Member. We want you to be successful during this program and far beyond your time with us. We recognize that it won't be easy, but we feel *you are well worth it!*

In support of your recovery and growth,

The Merrimack County Drug Court Team

**APPENDIX A – Acknowledgement and Waiver of Rights  
STATE OF NEW HAMPSHIRE**

**MERRIMACK COUNTY SUPERIOR COURT**

**MERRIMACK COUNTY ADULT DRUG COURT  
ACKNOWLEDGEMENT AND WAIVER**

State v. \_\_\_\_\_  
Docket Number: \_\_\_\_\_

I voluntarily plead guilty to each and every charge.

I will participate in drug treatment as directed by the Merrimack County Drug Court (MCDC) team and my treatment providers. I will obey all of the rules of the MCDC and the rules of probation and/or parole.

I will submit to all random, supervised urine tests as directed by the PPO, the Court or other person associated with the MCDC team.

I will attend all scheduled treatment meetings, court dates and other scheduled appointments, on time.

I will pay any program fees, court-ordered restitution or fines as directed by the court. I will have an opportunity to “earn down” some fees and fines, but not restitution, for excellent program participation.

I understand that failure to fully participate, failure to appear, positive urine tests and other program failures will result in sanctions being imposed on me. Sanctions may include being held in custody pending a court hearing. I waive the right to a more prompt hearing. I understand that I may be held in custody until the next drug court hearing. I understand that the court will not schedule a separate bail hearing. I agree to waive a bail hearing and may be held up to 7 days before I am heard on the issue.

I agree that any attempt to falsify a urine test is grounds for sanctions. I understand that a missed test will be considered a positive test result and will also be subject to sanctions.

I agree that the court may generally rely on a presumptive chemical test result. I may request a further confirming test but if I test positive, I will not only bear the cost of the test but will be subject to additional sanctions.

I consent to waive the confidentiality of any medical, treatment or social service records. Records may be shared with all members of the MCDC team for purposes of reporting on my progress in the drug court program. If I withdraw this consent, I understand I will be terminated from the drug court program.

I understand that failure to appear for a court date will result in an immediate bench warrant and I will be held in custody until the next court date.

I understand that I must inform the PPO and all treatment staff of any prescription medication as well as over-the-counter medication that I am taking.

I understand that the average length of the drug court program is 18 months and that after graduating from the drug court program, I will continue on probation for up to 1 year or as directed by the Court.

I understand that my current attorney's involvement will end once the Court has accepted my guilty plea and I enter the drug court program. I understand the defense attorney member of the drug court team will have a different role from that of my attorney. I understand that I will typically speak on my own behalf during drug court sessions without the assistance of a lawyer. I understand that the team, including the judge and attorneys, will talk about me in team meetings when I am not present. I understand that these discussions will be conducted in a non-adversarial manner. There are exceptions to this. For instance, if I want to contest facts that are going to cause me to be sanctioned to jail for *one week or less*, I may have a brief hearing at the end of the regular drug court session. At that time, the defense attorney member of the drug court team will represent me for the sole purpose of challenging the facts that may lead to the jail sanction. Another instance would be when a jail sanction *in excess of one week or if termination* is possible (e.g. a violation of probation or a motion to impose my sentence is filed), defense counsel will be appointed and a fully contested hearing, held outside of the regular drug court docket, will be available to me.

I have been provided with the Participant Handbook and have read and understand all the terms and conditions associated with the program, including the section on Contested Sanctions.

\_\_\_\_\_  
Defendant Signature

\_\_\_\_\_  
Date

As counsel for the defendant, I have thoroughly explained all the components, requirements and expectations of the drug court program, including but not limited to the sanctions and rewards, possible jail time and an overall outline of the phases of the program. I believe the defendant fully understands the program and the consequences of this acknowledgement.

\_\_\_\_\_  
Counsel Signature

\_\_\_\_\_  
Date

As presiding judge of the Merrimack County Drug Court, I have inquired of the defendant as to whether he/she understand the requirements of the drug court program and I am satisfied that he/she has a full understanding of the program.

\_\_\_\_\_  
Presiding Justice

\_\_\_\_\_  
Date

**APPENDIX B - CONTACT INFORMATION**

<b>Address</b>	<b>Phone Number</b>	<b>Hours of Operation</b>
Concord Probation/Parole Office 314 North State St. Concord NH 03301	(603) 271-2268	Monday-Friday 8am-4:45pm
Riverbend Community Mental Health 278 Pleasant St. Concord NH 03301	1-844-524-6673	Monday-Friday 8am-5pm
Merrimack County Attorney's Office 4 Court St. Concord NH 03301	(603) 228-0529	Monday- Friday 8am-5pm
NH Public Defender 10 Ferry St. #202 Concord NH 03301	(603) 224-1236	Monday-Friday 8am-5pm
Merrimack County Department of Corrections 325 Daniel Webster HwyBoscawen, NH 03303	(603) 796-3600	
Merrimack County Superior Court 163 North Main St. Concord NH 03301	855-212-1234	Monday-Friday 8am-4pm
Drug Court Coordinator Alyssa Ng, BS, CRSW	603-496-0759	

## APPENDIX C – OTC Medication Acknowledgement Form

Merrimack County Adult Drug Court  
OTC Medication Acknowledgement Form

I, \_\_\_\_\_, understand that as a participant in Drug Court, I cannot take certain over-the-counter (OTC) medications commonly used for cold, allergies, or cough.

I understand that I am prohibited from taking allergy/cold/cough medication/supplements that contains any of the following:

Alcohol  
Pseudoephedrine  
Dextromethorphan  
Phenylpropanolamine  
Doxylamine  
Diphenhydramine  
CBD Products  
Kratom  
Creatine  
Kombucha

I understand that examples of medication including such compounds include, but are not limited to:

Actifed	Dayquil	Sinutab
Benadryl	Dimetapp	Sudafed
Benlyn	Neo-Synephrine	Tylenol Cold
Comtrex	Nyquil	Vicks 44D
Contac	Robitussin Sinus	Vicks 44M
Coricidin D	Sine-Off	Zytrec-D

I understand that it is my responsibility to ensure that any OTC medication I take does not contain the compounds listed above and understand that I should consult with a pharmacist about this as necessary. I understand that if I test positive due to taking any of these prohibited medications, it will be counted as a positive test and that I may be subject to sanctions.

I also understand that I must disclose any OTC medication taken when I complete the Testing Disclosure Form at any drug testing sample collection (urine screen).

---

Signature

Date

---

Clinician or Case Manager Signature

Date

## **APPENDIX D – DEFINITION OF VIOLENT OFFENSE**

A person who is either:

1. Is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding 1 year, during the course of which:
  - a. The person carried, possessed, or used a firearm or another dangerous weapon;  
and
  - b. There occurred the use of force against the person of another:

**OR**

- c. There occurred the death of, or serious bodily injury to, any person, without regard to whether any of the circumstances described above is an element of the offense or conduct of which or for which the person is charged or convicted;

**OR**

2. Has one (1) or more prior convictions of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause the death or serious bodily harm.

