

STATE OF MICHIGAN GENESEE COUNTY 7 <sup>th</sup> JUDICIAL CIRCUIT 68 <sup>th</sup> DISTRICT COURT	MENTAL HEALTH COURT	LOCAL ADMINISTRATIVE ORDER (LAO) 2008-03J, 2008-04J
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7<sup>th</sup> Judicial Circuit Court, 900 S. Saginaw St., Flint, MI 48502 (810) 424-4355  
68<sup>th</sup> District Court, 630 S. Saginaw St., Flint, MI 48502 (810) 424-4439

#### INTRODUCTION:

The purpose of this order is to authorize a cooperative venture between the 7<sup>th</sup> Circuit Court, 68<sup>th</sup> District Court, the Genesee County Community Mental Health Agency, the Genesee County Sheriff's Department, City of Flint Attorney's Office, the Genesee County Prosecutor, and other local law enforcement agencies. The agencies listed above have come together based on the philosophy that this community can better serve our mentally ill and the individuals whose lives are affected by them by combining resources and staff and working toward a common goal. The goal is to divert into long term mental health treatment mentally ill individuals who have been charged with a civil or criminal offense that meets the eligibility criteria.

#### ELIGIBLE PARTICIPANTS:

A representative of Community Mental Health shall refer qualified individuals for participation in the program. The criteria for entrance into the program shall be:

1. Axis I diagnosis of Schizophrenia, Schizoaffective disorder or Bipolar Affect disorder by a licensed and qualified mental health professional;
2. At least 17 years of age;
3. Resident of Genesee County;
4. Pursuant to MCL 771.1 (Delayed Sentencing Act) Defendant must agree in writing to participate and cooperate with the program;
5. Defendant must acknowledge in writing a willingness to take medication;
6. Defendant must have the capacity to understand the requirements of Mental Health Court, the consequences for failure to follow those requirements and the ability to comply with terms of bond or probation;
7. Defendant was not compliant with treatment at time of arrest as determined by the CMH representative;
8. Defendant must not pose an unacceptable risk of harm to mental health court staff, themselves, and the community;
9. The appropriate prosecuting authority must approve the request for entry into the program;
10. If the defendant is indigent an attorney shall be appointed to represent the defendant at county expense. The appointed attorney shall be paid from the 7<sup>th</sup> Circuit Court budget. If the defendant has sufficient income to retain an attorney, the case may proceed with

retained counsel. Defendants will not be allowed to participate in the program without representation by an attorney.

#### ELIGIBLE OFFENSES:

The offenses eligible for selection to the program shall include felonies at the district court level and misdemeanors (both pre and post-warrant with the approval of the appropriate prosecuting authority). Some violent offenses will be eligible with the consent of the victim. Pursuant to MCL 771.1, the offenses of murder, treason, criminal sexual conduct in the first or third degree, armed robbery, or major controlled substance offenses shall be excluded from the Mental Health Court Program.

#### PROCEDURE:

1. The Mental Health Jail Diversion Case Manager shall review the daily jail booking report to find eligible participants for the program. If the Mental Health Jail Diversion Case Manager finds a qualified individual who is a CMH participant the Case Manager will complete a screening process. If the defendant is not a CMH participant, the Case Manager will contact MCIST (Mobile Crisis Intervention and Stabilization Team) who will arrive at the jail within 3 hours to assess the defendant. Once the screening process is completed, the Case Manager or his/her designee will contact the Mental Health Court Judge or her designee to conduct an arraignment.

2. At the arraignment the Court shall determine if the individual is willing to participate in mental health treatment. If the individual is willing to participate, mental health treatment shall be imposed as a condition of bond. At the conclusion of the arraignment, a date and time for a pre-trial hearing shall be selected. Notice of the pre-trial hearing shall be given to the appropriate prosecuting authority, defense counsel, and CMH representative. If the individual is charged with a misdemeanor, prior to the pre-trial hearing, an Order Assigning the Mental Health Court Judge to the file shall be executed and filed.

3. If the individual is charged with a felony offense, a district court pre-trial will be scheduled. At the pre-trial, a waiver of right to a preliminary examination must be properly executed, followed by the filing of a bind over document in the circuit court. The circuit court judge assigned to the case will schedule the matter for arraignment and guilty plea.

Upon acceptance of the guilty plea, the case will be referred to the Mental Health Court Judge for participation in the Mental Health Court. If the participation is successful, the case will be dismissed pursuant to the protocol as set forth in this order. If the defendant does not successfully participate, the case shall be referred back to the assigned circuit court judge and scheduled for sentencing.

4. If the referred offense is a misdemeanor, at the pre-trial hearing the Mental Health Court Judge, defense counsel, and a CMH representative shall be present. Prior to the pre-trial

hearing, the appropriate prosecuting authority shall review the file and may also appear at the pre-trial hearing. If the prosecuting authority is unable to attend the hearing, a representative may signify their approval for the placement of the individual into the Mental Health Court by signing the proposed contractual agreement.

5. If the individual is willing to participate in the mental health court program he/she will sign an agreement with the Court and CMH, enter a plea of guilty to the allegations, and consent to an order for mental health treatment. Sentencing shall be delayed pursuant to MCL 771.1 for not more than one year provided that the individual complies with treatment. If the individual is not willing to participate in the program, the case shall continue in the normal fashion in the 68<sup>th</sup> District Court or the Circuit Court.

6. The Court shall enter an Order delaying sentence (MC 294) or a substantially corresponding form requiring the defendant to attend treatment, maintain medication compliance, and appear in court as ordered on a regular basis or any other conditions of delayed sentence. The CMH representative and the defendant shall attend all court hearings. The case will be monitored for compliance for a period not to exceed 365 days. If the defendant is successful, the charges shall be dismissed. A determination of successful/unsuccessful participation will be made so as to allow any necessary sentencing to take place within 12 months of the date of acceptance of the guilty plea.

7. The CMH representative shall notify the Court in writing of non-compliance on the part of the defendant. If the individual does not comply with treatment after signing the agreement and entering a plea, sentencing shall be scheduled and take place before the Judge who accepted the plea (or his/her designee) within 14-21 days of the notice of non-compliance being filed with the Court. In the case of a felony, notice shall be provided to the assigned circuit court judge and adult probation. Counsel for the defendant shall attend the sentencing hearing.

8. The Court will report the conviction and final outcome of the case as required by statute and court rule. The Court will restrict access to CMH treatment records and communications as set forth in the State Court Administrative Office Non-Public and Limited Access to Court Records Chart.

IT IS HEREBY ORDERED that previously submitted local administrative order, 2007-3J, is rescinded.

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Hon. Archie Hayman, Chief Judge  
7<sup>th</sup> Judicial Circuit Court

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Hon. Archie Hayman, Chief Judge  
68<sup>th</sup> District Court

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

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