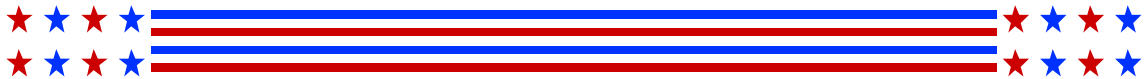


Fifth Judicial District

DUI Court

Policies and Procedures

Handbook



Revised March 2023

Mission Statement

DUI Courts in the Fifth Judicial District will strive to reduce repeat offenses of alcohol & drug offenders in the criminal justice system and provide community protection with cost effective, integrated care through the development and utilization of community resources. DUI Courts will hold defendants accountable and will assist offenders to achieve long-term recovery and be law-abiding citizens and successful family/community members.

Table of Contents

MISSION STATEMENT	2
ABOUT DUI COURTS	4
FIFTH JUDICIAL DISTRICT DUI COURT	4
ELIGIBILITY CRITERIA	4-5
ACCESSING THE DUI COURT PROGRAM	5
GUILTY PLEA & SENTENCING	5-6
PROGRAM RULES	6-8
PROGRAM FEES	8
PHASES OF THE DUI COURT	8-9
EX PARTE CONTACTS BY THE JUDGE	10
WAIVER OF DUE PROCESS RIGHTS	10
SUMMARY DISPOSITIONS AND SANCTIONS	10-11
PROBATION VIOLATIONS AND EXPULSION	11
GRADUATION REQUIREMENTS	11
GRADUATION	11
CONCLUSION	12
DUI COURT PHONE NUMBERS	12

Welcome to the Fifth Judicial District DUI Court Program.

This handbook is designed to answer questions, address concerns, and provide overall information about the DUI Court. As a participant, you will be expected to follow the instructions given to you by the judge, and the probation officer as well as to comply with the treatment plan developed for you by an approved treatment provider. This handbook will detail what is expected of you as a DUI court participant and review general program information. It is intended to be a standard guide to DUI court participants within the Fifth Judicial District. However, some guidelines may vary at the discretion of the DUI court team.

About DUI Courts

DUI Courts are an alternative to jail with emphasis on accountability and intensive monitoring for individuals charged with a DUI offense. The DUI court removes defendants from the clogged courtrooms of the traditional criminal justice system, placing them in a new type of courtroom environment where they undergo treatment and counseling, submit to frequent and random alcohol/drug testing, make regular appearances before a judge, and are monitored closely for program compliance. While DUI courts vary widely in scope, organization, and points of intervention, all share an underlying premise that a DUI is not simply a law enforcement or criminal justice problem, but a public health problem with roots deep in society. DUI court programs see the court, specifically the judge, as having a role that goes beyond that of adjudication.

About the Fifth Judicial District DUI Courts

The Fifth Judicial District DUI Courts are programs for offenders who are alcohol dependent and have not addressed their problem or been successful in their recovery. The four-phase program consists of intensive supervision of clients by a probation officer, frequent appearances before the DUI court judge, mandatory drug and alcohol counseling, regular attendance at self-help groups (AA or NA), random alcohol/drug testing, treatment programs and classes followed by a period of probation. When the competencies are achieved for a particular phase, the defendant becomes available for phase advancement. Upon completion of the first three phases, the defendant will enter Phase 4, which places an emphasis on the defendant's application of learned competencies, skills, and a personal recovery plan. After completing Phase 4 the participant will graduate to probation only. During this period of supervision defendants will comply with the standards and conditions of probation. The program length, which is determined by the participant's progress, will generally not be less than 12 months and more than likely be as long as 24 months.

The Fifth Judicial District DUI Courts are held every; Tuesday morning at 8:15 a.m. in Burley at the Cassia County Judicial Center at 8:15 a.m., Wednesday morning in Twin Falls at 7:30 a.m. in the Twin Falls Judicial Annex, every Thursday morning in Jerome at 7:30 a.m. in the Jerome Judicial Annex.

Eligibility Criteria

To be eligible to participate in the DUI Court Program, you must:

1. Be charged with an excessive DUI, or have pled guilty to a prior DUI.
2. Have an alcohol problem which you have not addressed or prior recovery attempts have been unsuccessful.
3. Have the capacity to manage the structure of DUI court.

4. A person with a felony DUI may be accepted into the program as a condition of felony probation and without the expectation of having their sentence reduced or the charge dismissed.

You may be excluded from applying for the DUI Court Program if:

1. You are a “violent offender”. A “violent offender” is a person who either:
 - a. Is currently charged with or has been convicted of an offense, during the course of which offense or conduct:
 - i. The person carried, possessed or used a firearm or dangerous weapon;
 - ii. There occurred the death of or serious bodily injury to any person; or
 - iii. There occurred the use of force against the person of another, without regard to whether any of the circumstances described in sub-paragraph (i) or (ii) are an element of the offense or conduct of which or for which the person is charged or convicted; or
 - b. Has one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.
2. You are currently charged with, or have pled or been found guilty of a felony in which you committed, attempted to commit, conspired to commit, or intended to commit a sex offense.

Accessing the DUI Court Program

You can apply for DUI Court or be referred by your attorney, the prosecuting attorney, the judge, your probation officer, or your treatment provider. Following legal, clinical, and probation screening, your application for acceptance into the DUI Court Program will be submitted to the staffing team for acceptance or denial. If accepted into the DUI Court, your public defender or private attorney may continue to represent you, in a non-adversarial manner, during your participation in the program. However, violations of the program rules are dealt with summarily by the court (and not by an adversarial process). In accordance with 42 C.F.R. Part 2, if accepted into DUI Court you will be required to sign a Multiparty Case Staffing and Open Court Hearings Consent Form.

Guilty Plea and Sentencing

If you agree to participate in the DUI Court, you must plead guilty to your DUI and be sentenced. At sentencing, the court will place you on probation. The Court also has the option of imposing a withheld judgment and placing you on probation. The most important probationary term is the successful completion of the DUI Court program. By entering the program, the defendant agrees to a summary disposition by the judge of any violations of the program rules or requirements.

The advantage to the defendant in entering the program is that 1) a participant in good standing in DUI Court, as provided in chapter 56, title 19, Idaho Code, shall be eligible for restricted driving privileges that may be granted by the DUI Court judge, provided the participant drives only a motor vehicle equipped with a functioning ignition interlock system. The court cannot enter an order to issue a restricted driver's license or permit that allows for commercial vehicle operation (CMV) or CMV driving privileges, or if the sentencing judge in a felony cases denies authorization of a restricted license, and 2) if a withheld judgment was imposed, the defendant can seek to withdraw his or her guilty plea and have the charges dismissed upon successfully completing the program. (Note: the state may still use the withheld judgment to enhance penalties for future DUI's incurred by the defendant.)

You will not be allowed to withdraw your guilty plea if you are terminated or withdraw from DUI Court. Instead, your case will be set for a formal probation violation hearing where your withheld judgment will be revoked and sentence may be imposed.

Program Rules

As a DUI court participant, you will be required to abide by the following rules:

*** Attend All Ordered Treatment Sessions and Relapse Prevention Classes.**

This includes individual and group counseling, educational sessions, and other treatment programs including, but not limited to, domestic violence groups, parenting groups, continuing education, relationship/family counseling, victims' panels, etc. Unexcused absence from treatment sessions will result in a sanction.

*** Be On Time.**

If you are late for treatment, you may not be allowed to participate and will be considered to be non-compliant. You should always contact your counselor if there is a possibility that you may be late.

*** Appropriate Dress & Behavior.**

As a participant, you will be expected to dress appropriately for court. Clothing and accessories bearing drug, alcohol or sexually related themes are considered inappropriate. Sleeveless shirts, belly shirts, and body piercing other than earrings will not be allowed in court. The judge alone decides if you are dressed appropriately for court. As a participant, you are also expected to present yourself in a professional and appropriate manner while in court. Slang, poor attitude, and expletive language are considered inappropriate and will not be tolerated.

*** Comply With All Probationary Terms and The DUI Court Contract.**

*** Do Not Make Threats Towards Other Participants, Treatment Providers Or Staff Or Behave In A Violent Manner.**

Violent or inappropriate behavior will not be tolerated and will be reported to the Court. This behavior may result in a sanction or termination from the DUI Court.

*** Attend All Scheduled DUI Court Sessions.**

You must attend all court sessions as scheduled by the DUI Court Coordinator.

*** Abstain From The Use Of Alcohol And Illicit Drugs.**

This condition is fundamental to successful completion of the program. You may not consume alcohol or illicit drugs. Any prescription and over-the-counter medication must be approved by the DUI Court Coordinator prior to use. Abuse of prescription drugs will result in a sanction. Use of someone else's prescription or non-approved medication will result in a sanction. You must maintain sobriety for a minimum of six months prior to graduation from the program. You may not

consume, possess, purchase or be where alcohol is present. A relapse could potentially extend the time you are in the program, or cause you to be expelled from the program.

*** Submit To Observed Testing.**

You will be tested throughout the entire program. During the first phase, you will be tested frequently and randomly. Breath tests, urinalyses, blood tests and other tests may be used. Testing frequency is dependent on the Judge's order and in compliance with the policies of Probation and Parole, for felony cases, and/or Misdemeanor Adult Probation for misdemeanor cases. As you progress through the program, testing will be required on a less frequent basis. The DUI Court judge will have access to all testing results including any "insufficient sample" or failure to test, and may order the DUI Court participant to submit to a test at any time. A "insufficient sample" is the inability to provide a urine specimen within 20 minutes of the request. A "insufficient sample", failure to test or to report, or appearing late to submit a urine test will be treated as a violation. Adulterated urine, which may include diluting, tampering, or falsifying, will be considered as a positive test and may result in termination from the program. The goal of the DUI court is to help you achieve recovery from alcohol and substance addiction; however, a positive breath or urine test will not automatically disqualify you from the program.

Medications and Prescriptions – As a general rule, DUI Court participants are expected to be drug free, including the use of prescription medication. When seeking medical assistance you are required to notify medical professions of your participation in a recovery program and **always ask for non-narcotic medication.** You must provide a copy of any prescription(s) to the DUI Court Coordinator and Probation Officer as well as the Testing Facility. If your medical professional feels that ONLY a narcotic pain reliever is appropriate, you are required to obtain a written note from your provider indicating such. While in DUI Court, you must use ONE doctor or one dentist and ONE pharmacy. Using medication that has not been prescribed to you will not be tolerated. Giving your medications to others will not be tolerated.

Pre-Approved Over-The-Counter Medications:

PAIN

Tylenol
Bayer Aspirin
Excedrin
Aleve

COLD/FLU

Dimetapp Non-Alcohol

ALLERGIES

Benadryl
Claritin

ANTACIDS

Tums (Not Zantac)

DO NOT USE LIST

You are responsible for everything you consume or ingest into your body.

- DO NOT CONSUME ALCOHOL
- DO NOT CONSUME CONTROLLED SUBSTANCES (Illegal/Prescription)
- DO NOT CONSUME SYNTHETIC DRUGS (Spice, Haze, K2, Bath Salts.
- DO NOT CONSUME POPPY SEEDS IN ANY FORM (muffins, bagels, etc.)
- DO NOT CONSUME AND OR POSSESS OVER THE COUNTER MEDICINE WHICH CONTAINS DEXTROMETHORPHAN (as in Alka-Seltzer Cold, Coricidin, Delsym, Mucinex, Robitussin, Theraflu, Vicks.
- DO NOT CONSUME EXCESSIVE FLUIDS
- DO NOT CONSUME CLEANSING/DETOXIFYING SOLUTIONS/SUPPLEMENTS
- DO NOT CONSUME BAKING SODA OR BLEACH
- DO NOT CUT YOUR HAIR SHORTER THAN 2 INCHES
- DO NOT WEAR HAIR EXTENSIONS
- DO NOT COLOR, DYE, BLEACH OR USE ANY OTHER CHEMICALS IN YOUR HAIR.
- DO NOT CONSUME ANY CREATINE SUPPLEMENTS.
- DO NOT USE ANY 'NATURAL' OR HERBAL REMEDIES (Kratom, Kombucha tea)
- DO NOT CONSUME "ALCOHOL FREE" BEVERAGES (Alcohol free beer or wine or 'virgin' cocktails.)

- DO NOT CONSUME ANY ENERGY DRINKS INCLUDING RED BULL OR 5 HOUR ENERGY
- DO NOT CONSUME RANITIDINE (ZANTAC)
- DO NOT USE OR POSSESS VAPE PENS OR E-CIGARETTES
- DO NOT USE ANY OVER-THE-COUNTER DIET AIDS
- DO NOT ACCEPT/RECEIVE ANY TATTOO'S OR PIERCINGS.

*** Honesty.**

Dishonesty concerning use will result in a more harsh sanction. The judge will review your actions and overall performance with the DUI Court staffing team to determine appropriate consequences.

*** Maintain Confidentiality of Other DUI Court Participants**

Treatment cannot succeed unless all participants maintain the confidentiality of other participants and of information disclosed in treatment.

Program Fees

As a participant, you must agree to pay a minimum program fee of \$100.00 per month. A participant may be subject to additional costs including, but not limited to, court fines, treatment costs, costs of supervision and testing fees. Payment is due by the 15th of each month in advance or as arranged by agreement with the DUI Court team or the Probation Officer in regards to costs of supervision. Payment history will be reported to the judge as part of your regular progress report. Regular monthly payments must be made and ***all treatment and program fees must be paid prior to advancement to the next phase and/or graduation from DUI Court.***

PHASES

Phase 1 = 13 weeks (Minimum)

1. Report to DUI Court Coordinator and/or Probation Officer in person at least once a week or as directed.
2. Attend alcohol/drug counseling and/or 12-step meetings including approved support groups potentially a minimum of once daily, seven days a week as directed by the DUI Court Team and provide written verification.
3. Submit to random testing as directed by the probation officer or treatment provider, potentially 2 or 3 times a week.
4. Attend DUI Courts at least once per week or as directed.
5. Obtain a sponsor and home group within six weeks of sign-up. Contact sponsor at least once per week and provide written verification as directed.
6. Pay a minimum \$100.00 DUI Court fee and be current with other fees and fines. (Other fees and fines may include, but are not limited to, court fines, treatment fees, cost of supervision fees, and drug testing fees.)
7. Call in daily for alcohol/drug testing as directed.
8. Maintain employment or participate in continuing education as directed.
9. Participate in required classes or treatment programs.
10. Achieve Phase I competencies.

Phase II = 13 weeks (Minimum)

1. Report to DUI Court Coordinator and/or Probation Officer in person at least three times per month or as directed.
2. Attend alcohol/drug counseling and/or 12-step meetings, including approved support groups, a minimum of two times a week, as directed by the DUI Court Team and provide written verification.
3. Submit to random testing as directed, potentially 2 to 3 times a week.
4. Attend DUI Court at least three times per month or as directed.

5. Continue to contact sponsor at least once per week and provide written verification as directed.
6. Pay a minimum \$100.00 drug court fee per month and be current with other fees and fines. (Other fees and fines may include, but are not limited to, court fines, treatment fees, cost of supervision and drug testing fees.)
7. Call in daily for alcohol/drug testing as directed.
8. Maintain employment or participate in continuing education as directed.
9. Participate in required classes or treatment programs.
10. Achieve Phase II competencies.

Phase III = 13 weeks (Minimum)

1. Report to DUI Court Coordinator and/or Probation Officer in person at least twice per month as directed.
2. Attend alcohol/drug counseling and/or 12-step meetings, including approved support groups, a minimum of two times a week, as directed by the DUI Court Team and provide written verification.
3. Submit to random testing as directed, potentially 1 to 2 times a week.
4. Attend DUI court at least twice a month or as directed.
5. Continue to contact sponsor at least once per week and provide written verification as directed.
6. Each month pay a minimum \$100.00 DUI Court fee and be current with other fees and fines. (Other fees and fines may include, but are not limited to, court fines, treatment fees, cost of supervision, and drug testing fees.)
7. Call in for alcohol/drug testing as directed.
8. Maintain employment or participate in continuing education as directed.
9. Participate in required classes or treatment programs.
10. Achieve Phase III competencies.

Phase IV - Continued Care

1. Report to DUI Court Coordinator and/or Probation Officer in person at least once a month.
2. Attend treatment or aftercare as directed.
3. Submit to random tests as directed.
4. Attend DUI Court at least once a month.
5. Attend 12-step meetings including approved support groups a minimum of two times a week and provide written verification as directed.
6. Continue to contact sponsor on a regular basis and provide written verification as directed.
7. Pay a minimum \$100.00 DUI Court fee per month and be current with other fees and fines. (Other fees and fines may include, but are not limited to, court fines, treatment fees, cost of supervision, and drug testing fees.)
8. Call in for alcohol/drug testing directed.
9. Meet all graduation requirements.
10. Achieve Phase IV competencies.

Probation Phase

1. Report to Probation Officer in person at least once a month as directed.
2. Submit to random tests as directed by the Probation Officer.
3. Attend 12-step meetings including approved support groups and provide written verification as directed by the Probation Officer.
4. Continue to contact sponsor on a regular basis and provide written verification as directed by the Probation Officer.
5. Call in for alcohol/drug testing as directed by the Probation Officer.

6. Comply with all standards and conditions of probation. It is at the discretion of the Probation Officer if and when you will be put on unsupervised probation or released from probation. In felony cases, the decision to move to unsupervised or removed from probation is up to the sentencing judge.

WAIVER OF RIGHTS IN THE DUI COURT

A. EX PARTE CONTACTS BY THE JUDGE.

Under ordinary circumstances, neither the prosecutor nor defense counsel is permitted to communicate with the judge about a case without the other lawyer being present. Further, no third person is allowed to speak to the judge about a case without the lawyers being present. Such communications are called ex parte contacts.

However, because it is a problem-solving court, a DUI Court judge is allowed limited ex parte communications concerning a case. Specifically, the DUI Court judge is authorized to initiate, permit or consider ex parte communications with members of the DUI Court team at DUI Court appearances or staffing sessions, and to receive written documents which have been provided to all members of the DUI Court team.

B. WAIVER OF DUE PROCESS RIGHTS.

A DUI Court participant agrees to waive his or her due process rights concerning alleged violations of the DUI Court's terms and conditions. Specifically, a participant waives:

1. The right to notice of the grounds which are alleged to be violations of the DUI Court's terms and conditions.
2. The right to be represented by an attorney at any hearing held in the DUI Court.
3. The right to an evidentiary hearing at which the State must prove by a preponderance of the evidence that the participant violated the DUI Court probation as alleged.
4. The right to confront the witnesses accusing the participant of a probation violation by asking them questions; to testify himself or herself; and to call witnesses on the participant's behalf.
5. The right against self-incrimination, meaning the court may ask questions of the participant concerning the alleged violation.

C. SUMMARY DISPOSITIONS, SANCTIONS, and INCENTIVES.

1. Dispositions. The participant consents to the DUI Court Judge entering summary dispositions against him or her concerning violations of the DUI Court rules. Potential sanctions include, but are not limited to, the following:

- | | |
|---------------------------------|---|
| • Return to a prior phase | • Loss of driving privileges |
| • Community service/work detail | • Increased supervision, including SCRAMs |
| • Additional fees | • Essays |
| • Warrants for arrest | • Required participation in programs/classes |
| • Jail time | • Required participation with treatment providers |

2. Waiver of Counsel's Presence. The participant consents to the DUI Court judge imposing sanctions against him or her without the presence of defense counsel and/or the prosecutor. Even if they are present, the participant agrees that the judge need not hear the comments of the prosecutor and/or defense counsel prior to imposing sanctions against him or her. Prior to any sanctions being imposed, the participant will be allowed to speak to the judge to

explain his or her position, to present matters in mitigation or otherwise make amends with the court.

3. Waiver of Appeal. The participant waives any right to appeal any summary sanction imposed upon him or her in the DUI Court.

4. Incentives.

- **Star of the Month** – The DUI Court Staff choose the most outstanding “Star” each month from all participants that has been compliant with program rules, treatment and probation, above and beyond other participants. That person is rewarded the Star of the Month Certificate and their name is entered for possible selection as Star of the Quarter, and are entitled to choose an extra day off from attending DUI Court.
- **Star of the Quarter** – Quarterly, all of the Stars of the Month are submitted to the Staff and a Star of the Quarter is chosen and are awarded the Star of the Quarter Certificate and are entitled to choose an extra day off from attending DUI Court and receive a one-time reduction in their monthly DUI Court fee.
- **Limited License** – The participant may apply to the DUI Court Team to be issued a restricted license to drive to and from court, work, treatment, testing, Probation meetings and other things required of the DUI Court program and/or ordered on the Court Judgment and provided the participant’s license is good and valid with exception to the suspension in the DUI Court case. The participant must have a state approved breath alcohol ignition interlock system (Interlock) installed in any vehicle that the participant will be driving and have valid insurance. The Interlock must be scheduled to be downloaded one a month at minimum. A camera system must also be installed as part of the Interlock package, as required by Idaho Statutes. The limited license will be issued for 30 days at a time and be reviewed monthly by DUI Court staff to ensure that no further restrictions or violations have been attached to the participant’s license that would prevent a limited license being issued. The granting of a limited license does not reduce the length of any court ordered suspension entered in the judgment, including the requirement for an ignition interlock device following the end of an absolute suspension.

D. PROBATION VIOLATIONS AND EXPULSION FROM THE DUI COURT.

If the participant’s expulsion from the DUI Court is sought or if the participant quits on his or her own accord, the participant’s case will be dealt with in accordance with the Idaho Rules for Treatment Courts, the rules can be found on the State of Idaho Judicial Branch website at isc.idaho.gov/irtc.

While expulsion or probation violation proceedings are pending against the participant, he or she shall continue to participate in the DUI Court until a final termination or expulsion order discharging the participant from the DUI Court is entered.

Graduation Requirements

Upon successful completion of the DUI Court Program you will be eligible to graduate. In order to graduate from DUI Court you must accomplish the following:

- ✓ 6 consecutive months of sobriety;
- ✓ 6 months of steady employment, unless retired or disabled, a full time homemaker or a full-time student;
- ✓ Successful completion of all court-ordered treatment, including competencies;
- ✓ Maintain sponsor contact on a regular basis;
- ✓ Regular 12-step meeting or approved support group attendance;
- ✓ Completion of all specialized probation terms;

- ✓ Completion of high school diploma or GED, or attending ESL (English as a Second Language) classes, unless an exception is determined by the DUI Court Team.
- ✓ Must be current on payment of fines, restitution and treatment fees, and cost of supervision.

Graduation

At graduation, your family will be invited to join in as the judge congratulates you on successfully completing the program and achieving your goal to establish an alcohol and drug-free life. Graduation from the program is followed by administrative probation. Successful completion of the DUI court program and the period of probation will result in the dismissal of the charges.

Conclusion

The DUI Court program has been developed to help you achieve abstinence from alcohol and/or drugs. The program is designed to promote self-sufficiency and to return you to the community as a productive and responsible citizen. The judge, probation officer, treatment provider, and community resources are present to guide and assist you, **but the final responsibility is yours.**

We hope this handbook has been helpful and answered most of your questions. If you have any additional questions or concerns about the DUI Court program, please feel free to contact the DUI Court probation officer, the DUI Court coordinator, your public defender or private attorney.

DUI Court Phone Numbers

<i>District Coordinator</i>	208-735-4122
<i>DUI Court Felony Probation Officer (as assigned)</i>	208-736-3080
<i>DUI Court Probation Officer (Jerome)</i>	208-644-2641
<i>DUI Court Probation Officer (Mini-Cassia)</i>	208-878-7361
<i>DUI Court Probation Officer (Twin Falls)</i>	736-4230 Ext. 16