

Cowlitz County Drug Court
PAO Eligibility Protocol
(Revised April 2025)

Introduction

Drug Court offers participants, whose substance abuse issues contributed to criminal conduct, the opportunity to enter treatment for drug/alcohol addiction and have their current charges dismissed upon successful completion of the program. The goal of Drug Court is to stop criminal activity associated with substance abuse.

Goals for Drug Court:

- (1) Reduce criminal recidivism by providing assessment, education and treatment to drug/alcohol addicted criminal offenders.
- (2) Monitor treatment compliance through frequent court contact and supervision.
- (3) Require strict accountability from program participants and impose immediate sanctions for unacceptable behavior.
- (4) Reallocate resources to provide an effective alternative to traditional prosecution and incarceration of non-violent/non-sex offenders.
- (5) Reduce costs within the county's criminal justice system.
- (6) Concentrate available criminal justice resources on more violent offenders.

Prosecuting Attorney Approval

Pursuant to RCW 2.30.030(1), to participate in Drug Court, "consent of the prosecutor is required." The Cowlitz County Prosecuting Attorney supports Drug Court and encourages those who are eligible to apply when they are committed to both overcoming substance abuse problems and refraining from further criminal conduct.

General Eligibility

The Prosecuting Attorney's guidelines for eligibility take into consideration the legislative ideals expressed in RCW 2.30 and 9.94A. In addition to the treatment of the offender, these guidelines also consider the concerns and safety of victims, law enforcement, and the community. The Prosecuting Attorney ordinarily will not approve applicants for Drug Court when:

- a) The victim of the crime opposes entry into Drug Court;
- b) The applicant is not charged in Cowlitz County;
- c) The applicant does not have a Cowlitz County address;
- d) Restitution exceeds \$5,000;
- e) The applicant has been terminated, opted out, or graduated from Drug Court within the last five years;
- f) The applicant has a recent or lengthy history of criminal justice related non-compliance, as demonstrated through failures to appear, probation violations, or violations of court orders;
- g) The applicant fails to apply prior to pretrial;
- h) The applicant refuses to waive speedy trial while awaiting approval or opt in;
- i) The applicant has unresolved pending charges in District Court or other jurisdictions or acquires new charges while awaiting approval or opt in; or

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- j) After receiving initial approval, the applicant fails to engage with the Drug Court office prior to opt in to be assessed for suitability, in such case approval will be revoked.

Eligibility of Offenses

Offenses are classified as:

- (1) Statutorily Ineligible: Will not be approved.
- (2) Presumptively Ineligible: Will ordinarily not be approved absent a showing of exceptional circumstances.
- (3) Eligible: Will be considered on a case-by-case basis.

Statutorily Ineligible

Pursuant to RCW 2.30.030(3), absent special findings by the Court, the following individuals are not eligible for participation in Drug Court:

- a) Individuals who are currently charged or who have been previously convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030;
- b) Individuals who are currently charged with an offense alleging intentional discharge, threat to discharge, or attempt to discharge a firearm in furtherance of the offense;
- c) Individuals who are currently charged with or who have been previously convicted of vehicular homicide or an equivalent out-of- state offense; or
- d) Individuals who are currently charged with or who have been previously convicted of: An offense alleging substantial bodily harm or great bodily harm as defined in RCW 9A.04.110, or death of another person.

Presumptively Ineligible

To protect the community and seek justice for victims of crime, pursuant to the authority granted under RCW 2.30.030(1), the Prosecuting Attorney will ordinarily not approve applicants for Drug Court with the following pending charges:

- a) Firearm or deadly weapon enhancements;
- b) Delivering or manufacturing controlled substances;
- c) Possession with intent to deliver controlled substances when large quantities or firearms are involved;
- d) Violent offenses;
- e) Residential Burglaries;
- f) Domestic violence charges involving physical harm or the threat of physical harm;
or
- g) Driving Under the Influence.

If applying for a presumptively ineligible offense, the applicant must provide exceptional circumstances as to why Drug Court would be appropriate. When the applicant provides evidence of exceptional circumstances and there is a nexus between the applicant's substance abuse issues and the crime, the following will be considered in determining eligibility:

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- Criminal history;
- Remorse and willingness to change;
- Aggravating or mitigating circumstances;

If the offense involves drug trafficking, the following will also be considered in determining eligibility:

- Other known drug trafficking involvements;
- The presence of firearms;
- The quantity and drug categories involved;
- Whether the activity appears to be for profit or was to support a drug habit;
- Consultation with law enforcement.

With regard to domestic violence charges, victim safety, surrounding circumstances, repeated victimization, and the risk of coercion impacting victim input will be taken into account.

Eligible

Offenses that are not listed above are presumptively eligible and will be reviewed on a case-by-case basis. Criminal history, aggravating or mitigating circumstances, victim input, or any other factor that would bear on the appropriateness of Drug Court will be considered. The Prosecuting Attorney retains the discretionary authority to approve or deny any applicant. The Court still has authority to deny entry into Drug Court, even after the Prosecuting Attorney approves.

Drug Court Entry

To enter Drug Court the applicant must:

- a) Have a substance abuse disorder diagnosis;
- b) Explain the nexus between the substance abuse diagnosis and the current charges upon which entry into Drug Court is sought;
- c) Be amenable to treatment;
- d) Agree to a stipulation that failure to complete the requirements or abide by the conditions of Drug Court will result in termination;
- e) Agree to a stipulation that any new criminal charge will result in termination from Drug Court;
- f) Enter into a stipulation that the applicant is guilty of the charges and that the Court may find the applicant guilty based upon this stipulation, should the applicant later be terminated from Drug Court;
- g) Not have any pending felony or misdemeanor charges in Cowlitz County or any other court at the time of opt in;
- h) Have all pending open warrants or jail holds resolved prior to opt in.