

A GUIDE TO PROBLEM SOLVING COURTS IN DELAWARE WHAT ARE THEY AND WHAT DO THEY DO?

Governor Jack Markell, members of the executive branch, legislators, and members of the judiciary were in attendance as Governor Markell declared May 2012 Problem-Solving Courts Month for the State of Delaware. The Governor's declaration recognizes the important goal of these courts to reduce recidivism rates and save criminal justice resources by holding defendants accountable for their actions while ensuring that they have access to services to support their efforts to become productive tax-paying citizens.



Governor Jack Markell (seated, second to left), Representative Melanie Smith (seated, second to right), Chief Justice Myron T. Steele (standing, far right), and other judges and government officials recognized Problem-Solving Courts Month in May 2012.

Since its inception in 1994 with the creation of Superior Court Drug Court, problem-solving courts have grown and expanded statewide. There are now over 15 problem-solving courts in the State of Delaware. Following is a guide to the various problem-solving courts currently in operation throughout the state. Problem-solving courts facilitate community-wide partnerships, bringing together public safety and healthcare professionals in the treatment of substance abuse and mental illness and the fight against criminality.

Domestic Violence

As part of its continued efforts to provide protection and relief to victims of domestic violence, as well as ensure treatment and counseling for offenders, **Family Court** has created a specialized domestic violence court. The intention of this specialized court is twofold: to create greater continuity in Family Court cases involving domestic violence and to create a more standardized system of compliance for offenders. In January 2008, Family Court began conducting Protection from Abuse review hearings when a Respondent has not complied with the evaluation and treatment conditions of an active Protection from Abuse order.

The **Administrative Office of the Courts** recently received a 24 month grant from the Office on Violence against Women that will fund the Victim Advocacy and Safety Enhancement project in **Superior Court's** Mental Health Court ("MHC") and the **Court of Common Pleas'** Trauma Informed Probation Court ("TIP"). This project will support efforts in MHC and TIP to identify and coordinate services for justice involved victims of domestic violence and/or sexual assault with the goal of addressing the root cause of the problem that may have led to their involvement with the criminal justice system and reducing recidivism.

Drug Courts

The **Superior Court** Drug Court operates statewide. There are two tracks in this program. Track I targets defendants who are arrested while on Superior Court probation and charged with a drug offense

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that does not carry a minimum mandatory sentence. A violation hearing is held to resolve both the new charges and the violation. If a plea agreement is reached, both a treatment and punishment program is established. If the new charge is not resolved by a plea agreement, the court hears the violation hearing and schedules the new charge for trial.

Track II (diversion) targets defendants who have no or minimal prior felony convictions and are charged with a drug offense without a minimum mandatory sentence. A defendant in Track II waives a trial and enters into the diversion program. Diversion defendants appear at a monthly status hearing before the Drug Court Judge. If a defendant successfully completes the program, the case is dismissed.

The **Court of Common Pleas** Drug Court (“Drug Diversion”) operates statewide. Drug Diversion targets defendants with a minimal criminal history, which does not include a felony or previous drug conviction, who are charged with (1) possession of marijuana; (2) possession of drug paraphernalia; or (3) possession of a hypodermic needle without authority. The program monitors participants for a minimum of 14 weeks (8 weeks for the accelerated track in New Castle County). Upon successful completion of drug diversion, the case is dismissed.

The Delaware Legislature added new Section 1010 of Title 10 of the Delaware Code to establish the **Family Court** Adjudicated Drug Court Program in 2002. The Adjudicated Drug Court program operates statewide. The Delaware Department of Justice refers potential participants to the program. Once referred, defendants enter a plea of delinquency and the court orders a substance-abuse evaluation through the Division of Prevention and Behavioral Health. If the child successfully completes the program, the judge or commissioner will vacate the judgment of delinquency six months after program completion.

DUI Court

As a result of House Bill No. 378 (signed by the Governor on July 18, 2012), the **Court of Common Pleas** has begun the work of establishing a DUI Court. To aid in these efforts, the **Administrative Office of the Courts** was recently awarded a 30 month grant from the National Highway Traffic Safety Administration, Federal Department of Transportation, to establish a State Judicial Outreach Liaisons Officer (“State JOL”). The State JOL will assist the Court of Common Pleas in establishing a DUI Court by assisting with its research, coordination, planning, and implementation. In collaboration with other agencies, the State JOL will also review and develop community outreach programs on matters related to traffic safety and impaired driving.

Gun Court

The **Family Court** established a Gun Court in 2009 to break the repeating cycle of juvenile gun crime and rehabilitate Delaware’s youth as quickly and effectively as possible. Working in collaboration with the Department of Justice, the Office of the Public Defender, the Department of Services for Children, Youth and Their Families, and law enforcement, Family Court Gun Court strives to provide a single, streamlined judicial forum to address gun violence, to provide close court monitoring, dispense uniform justice, and reduce judicial backlog. Since its inception, 355 youth have been through Gun Court

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and Gun Court has been effective in reducing the average number of days from arrest to disposition by 45 days, resulting in reduced expenses to the state, as well as more effective and efficient access to rehabilitative and education services to juveniles.

Mental Health Courts

The **Superior Court** Mental Health Court offers a post-adjudication (probation) court statewide, and a diversion court in New Castle County, which is expanding to Kent County. Although the eligibility requirements differ in each county, generally a participant must have an Axis-I diagnosis and must not



Superior Court Judge Jan Jurden, court staff and others, involved in the New Castle County Superior Court Mental Health Court.

be convicted of a domestic violence or sexual offense. The Treatment Access Center (“TASC”) monitors and provides case-management services for participants. Upon successful completion of the post-adjudication program, the participant’s probation is successfully terminated. In the diversion program, charges against a defendant are dismissed.

The **Court of Common Pleas** recently expanded its Mental Health Court statewide. The Court of Common Pleas offers a diversion program in New Castle County and a diversion and post-adjudication program in Kent and Sussex Counties. To be eligible for the Court of Common Pleas Mental Health Court, a defendant must have an Axis-I diagnosis. Program participants receive case-management services and, if successful in the program, may have charges dismissed or their probation terminated.



Court of Common Pleas Judge Joseph Flickinger III, court staff and others involved in CCP's New Castle County Mental Health Court. Judge Flickinger, who was the founder of CCP's Mental Health Court, recently retired from the bench.

The **Family Court** Mental Health Court operates in New Castle and Kent Counties and offers two unique tracks. The first track is a traditional diversion program where defendants must have an Axis-I diagnosis and be approved by the Delaware Department of Justice. The second track focuses on children who are deemed incompetent but can be rehabilitated. These children remain under judicial supervision until they are deemed competent.



Family Court Commissioner Loretta Young listening to testimony in Mental Health Court in New Castle County.

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Reentry Court

The New Castle County **Superior Court** operates a Reentry Court that targets moderate to high-risk offenders returning to the community. The court offers two tracks: (1) offenders with multiple violation of probation charges who have a history of violent, weapon, or drug offenses; and (2) offenders who have committed crimes in, or are returning to, the City of Wilmington and have been incarcerated for a year or more. These participants receive dedicated TASC case managers, ancillary case managers through non-profits, and dedicated probation officers. Reentry court participants appear regularly in front of the Reentry Court judge for status conferences. Upon successful completion of the program, participants are successfully terminated from probation.

Trauma-Informed Probation Court

This unique post-adjudicated court in the New Castle County **Court of Common Pleas** targets participants with backgrounds in prostitution or who have a significant trauma background. Participants appear regularly in front of the Court of Common Pleas Commissioner and may receive trauma-informed therapy and other dedicated services.

Truancy Court

Truancy Court has operated in the **Justice of the Peace Court** statewide since 1998. Truancy Court is innovative in its remedial, non-punitive approach to improving school attendance as opposed to the more disciplinary measures of enforcing the law and mandating change seen in traditional court settings. The court encourages children to become productive citizens in both the classroom and in the home through regular judicial supervision and partnership with the local school systems.

Veteran's Court

The **Superior Court** Veterans' Treatment Court, which began in Kent County, is designed to assist justice-involved veterans with mental illness in obtaining services and reducing recidivism. The mission of the Veterans' Treatment Court is to work with veteran defendants with substance dependency and/or mental illness who have been charged with non-violent criminal offense(s). Veterans are identified through specialized screening and assessments and voluntarily participate in a judicially supervised treatment plan developed by a team of court staff, veteran health care professionals, and veteran peer mentors, among others. On January 2, 2013, the first session of the Veterans' Treatment Court in New Castle County, was held.



Judge William L. Witham, Jr., court staff and others providing services in the Superior Court Veterans' Treatment Court in Kent County.