



## **Waukesha County Post-Charge Deferred Prosecution Agreement (DPA)**

### Description

The Waukesha County Post-Charge DPA is offered to Waukesha County residents, with consideration for residents of nearby counties, that do not have a record of violent offenses, score moderate risk (or low risk with a felony charge or high risk with a misdemeanor charge) on a risk-needs assessment, and are identified as an offender who abuses opioids. Residents of other counties may be considered for participation, but the ability to attend all treatment and meetings is a deciding factor. Program requirements and components are determined on a case-by-case basis, primarily based upon the needs of the offender. Typical requirements and components may include regular court appearances, substance abuse treatment, counselling, drug testing, community service, and restitution. Program length is a minimum of six months for misdemeanor charges and twelve months for felony charges, but may extend for a longer duration under certain circumstances.

The Post-Charge DPA is offered to offenders following the approval of the Prosecutor assigned to the case. A scientifically validated risk assessment tool, administered by Wisconsin Community Services, is used to assess the eligible offender's risk to determine program placement as well as the necessary and appropriate level of services to be required per the DPA. After entering into the DPA, Wisconsin Community Services will provide all treatment referrals and drug testing, as well as monitor community service completion and compliance with all other program requirements. Non-compliance with program requirements will be reported to the District Attorney's Office and to the Court to determine the appropriate sanction or initiate agreement revocation.

The successful completion of a Post-Charge DPA is contingent upon the offender's ability to uphold his or her end of the agreement by following, attending, and completing all of the required conditions outlined in the DPA. Failure to follow, attend, and complete all of the required conditions as outlined by the program structure will result in sanction or revocation of the Agreement, followed by formal charging and prosecution as contained in the DPA. The decision to revoke the Agreement lies with the District Attorney's Office, but must be approved by the Court.

The Post-Charge DPA is a beneficial opportunity for offenders who meet the necessary requirements. By participating in and completing the program, pending charges will be amended to a lesser charge or dismissed altogether. The Post-Charge DPA is also beneficial in that it limits jail and prison sentences, reduces recidivism by utilizing rehabilitation and treatment, and saves taxpayer dollars.

### Requirements

In order to be eligible for the Post-Charge DPA, an offender must:

1. Be identified as an offender who abuses opioids
2. Have a non-violent criminal record (specific exclusions listed below)



3. Score moderate-risk (or low risk with a felony charge or high risk with a misdemeanor charge) on the utilized risk-needs assessment
4. Be able to attend all required treatment and meetings
5. Preference given to Waukesha County residents, but residents of other counties will be considered
6. If the offender's current pending charge has a victim, the victim must consent to the offender's participation

### Charges Resulting in Exclusion

Any person arrested for any of the following offenses will not be included in the Post-Charge Deferred Prosecution Program:

1. Operating while intoxicated
2. Residential burglary
3. Firearms charges
4. History of Firearms (Felony charges are ineligible, but misdemeanor charges from 5 years prior or longer may be considered)
5. Eluding (Pursuant to Wisconsin State Statute Section 346.04 (3))
6. Any sex offense
7. Crimes of violence – Where offender 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; or
  - 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
8. Public welfare and entitlement charges (Wherein offender's actions defraud or attempt to defraud a State of Wisconsin Agency are ineligible)
9. Domestic violence
10. Gang involved (History of arrest, criminal convictions, or other information that is documented consistent with the provisions of Wisconsin State Statute Section 939.22(9) and (21) for gang related activity are ineligible)
11. Drug Offenses:
  - a. Possession with intent to manufacture, distribute or deliver (Pursuant to Wisconsin State Statute Section 961.41(1m))
  - b. Distribution of controlled substance (Pursuant to Wisconsin State Statute Section 961.41(1))
  - c. Obtain possession of a controlled substance by fraud (Pursuant to Wisconsin State Statute Section 961.43)
  - d. Possession on or near certain places (Pursuant to Wisconsin State Statute Section 961.495)
12. Any other cases identified by the District Attorney's Office to be inappropriate for a deferred prosecution agreement