INDIANA OFFICE OF COURT SERVICES
STAFF AGENCY FOR THE JUDICIAL CONFERENCE OF INDIANA

251 NORTH ILLINOIS STREET, SUITE 800
INDIANAPOLIS, INDIANA 46204-1953
TELEPHONE: (317) 232-1313 FAX: (317) 233-3367

PROPOSED PROBLEM-SOLVING COURT RULE AMENDMENTS

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BY THE JUDICIAL CONFERENCE OF INDIANA

JUDICIAL CONFERENCE OF INDIANA
PROBLEM-SOLVING COURT RULES

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Section 1. Applicability

These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide problem-solving court services to participants pursuant to IC 33-23-16.

Section 2. Approval and Compliance Requirements

(a) A person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide services to persons who participate in a certified problem-solving court and whose services are within the scope of IC 33-23-16, may not offer, advertise, deliver, or provide services without first obtaining a provisional certificate from the Indiana Office of Court Services in accordance with these rules.

(b) ~~In order f~~For a court to secure and retain a problem-solving court certificate in accordance with section 6 of these rules, the court shall demonstrate compliance with IC 33-23-16, related laws, rules~~ and regulations~~, and the Adult Treatment Court Best Practice ~~standards~~ Standards ~~imposed by these rules~~.

(c) The Indiana Office of Court Services may take any administrative action at any time necessary to ensure compliance with these rules, including, but not limited to:
(1) Reviews,
(2) Site visits,
(3) Suspension of court operations,
(4) Suspension of a staff ~~member~~ member's job functions, and
(5) Surveys.
which may be scheduled or unscheduled, announced or unannounced.

(d) ~~In the event that~~When these rules are amended, a problem-solving court may continue operations pursuant to the amended rules and the court's current problem-solving court certificate until the court's scheduled recertification review is complete, unless otherwise directed by the Indiana Office of Court Services.

(e) Unless otherwise indicated, these rules and any amendments to these rules take effect on the date that they are adopted by the Judicial Conference of Indiana Board of Directors.

Section 3. Definition of Terms

The following terms, when used in these rules, shall have the meaning as defined below unless the context clearly indicates a different meaning:

"Case management" means goal-oriented case plan activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual problem-solving court participants in accordance with the policies and procedures of the problem-solving court or ~~other services~~ service provider.

"Case management file" means all records regarding a participant contained in the file maintained by the case manager, including printed and electronic information, regardless of the source of the information.

"Case manager" means a problem-solving court team member responsible for the case management of problem-solving court participants ~~and case management files~~, which may include maintaining the case management file, administering a risk and needs assessment, substance ~~abuse~~use and mental health screening, referral to treatment and ancillary services; monitoring participant compliance with the participation agreement, case plan and other applicable agreements; and providing participant progress and compliance information to the problem-solving court team.

"Case plan" means a plan that documents case management activities that the participant must complete as a condition of problem-solving court participation. These activities shall be based upon the results of risk and needs assessment, if required, in conjunction with any other assessments, the problem-solving court participation agreement, and other court orders.

"Certified Peer Support Professional" means an individual who utilizes their lived experience combined with certification by the Division of Mental Health and Addiction or an equivalent certifying agency recognized by DMHA, to instill hope, inspire change, and support other individuals through similar experiences, using personal connections, person-centered care, and their shared understanding to navigate their life in recovery.

"Certification review" means the process of reviewing a court's compliance with the state and federal ~~statutes~~law, ~~regulations and~~ rules for certified problem-solving courts, and the Adult Treatment Court Best Practice Standards, to include the application for certification, review of applicable documentation, site visit, and follow-up activities.

"Chemical test" means an analysis of an individual's blood, breath, hair, sweat, saliva, urine, or other bodily substances to determine the presence of alcohol, drugs, or controlled substances as defined in IC 35-48-1-9.

"Coordinator" means the problem-solving court team member responsible for the administration, management, and coordination of problem-solving court services and operations, including overseeing problem-solving court staff activities, ensuring the court's compliance with the problem-solving court statutes and rules, developing problem-solving court policies and procedures, managing service provider contracts and team member memoranda of understanding, managing program grants, facilitating team meetings, and serving as a liaison to local service providers and community groups.

"Criminal justice" means the system of laws, institutions, and practices to uphold the law, maintain societal order, and protect individual rights, comprised of law enforcement, the courts, and corrections.

"Documentation" means a written record acceptable as evidence to demonstrate compliance with these rules.

"Eligible individual" means an individual who meets the eligibility criteria as defined in IC 33-23-16-13.

"Eligibility screening" means a procedure for determining a potential participant's legal eligibility for admission to problem-solving court pursuant to IC 33-23-16-13.

"**Evidence-based practices**" means the use of research and science to enhance

~~decision making~~decision-making in the criminal justice system, resulting in the use of effective interventions to produce the most favorable results.

"Human services" means programs and services designed to address human health and welfare to enhance the quality of life.

"Incentive" means intangible or tangible rewards as a means of increasing desirable behaviors.

"Indiana Risk Assessment System" (IRAS) means the risk assessment system as adopted by the Judicial Conference of Indiana, comprised of several instruments to be used at specific points in the criminal justice process to identify an adult participant's risk to reoffend and criminogenic needs and assist with developing an individualized case plan.

"Indiana Youth Assessment System" (IYAS) means the risk assessment system as adopted by the Judicial Conference of Indiana, comprised of several instruments to be used at specific points in the juvenile justice process to identify a juvenile participant's risk to reoffend and criminogenic needs and assist with developing an individualized case plan.

"Judicial involvement" means regular and frequent interaction between the problem-solving court judge and participants during case compliance hearings held on the record.

"Orientation" means the administrative process in compliance with the requirements of section ~~21~~ 20 of these rules.

"Outcome evaluation" means an evaluation of program results or outcomes, as measured by collected data, which determines if the program achieved its stated goals.

"Participant" means any person who meets the eligibility criteria under IC 33-23-16-13, has signed a problem-solving court participant agreement, and has been admitted to the problem-solving court by the problem-solving court judge.

"Participation agreement" means the legal document signed by a participant and filed with the problem-solving court, evidencing the participant's agreement to follow the conditions of problem-solving court participation as required by section ~~19~~ 18 of these rules.

"Policy" means a statement of the principles that guide and govern the activities, procedures, and operations of a problem-solving court.

"Problem-solving court" means a court as defined in IC 33-23-16-8 that is operating under a problem-solving court certificate issued by the Indiana Office of Court Services pursuant to IC 33-23-16, including (as defined in IC 33-23-16):

(a) Community courts;
(b) Domestic violence courts;
(c) Drug courts;
(d) Family dependency drug courts;
(e) Mental health courts;
(f) Reentry courts;
~~(f)~~(g) Safe baby courts;
~~(g)~~(h) Veterans' courts; and
~~(h)~~(i) Any other courts certified as a problem-solving court by the Indiana Office of Court Services.

"Problem-solving court judge" means the judicial officer who presides over a problem-solving court and an individual authorized to perform judicial services within the courts of Indiana, including but not limited to a judge, magistrate, commissioner, and

referee. If the problem-solving court is a city court, the person serving as a problem-solving court judge is required to be an attorney under IC 33-35-5-7.

"Problem-solving court services" means a broad range of services provided under a case plan, including screening, assessment, education, referral, service coordination and case management, rehabilitative services, supervision, judicial involvement, and program evaluation that may be extended to a problem-solving court participant and that influence the behavior of the participant toward identified goals and objectives. The services and the manner in which they are provided are guided by IC 33-23-16.

"Problem-solving courts committee" means the Judicial Conference of Indiana committee established to integrate problem-solving principles into the administration of justice ~~in order~~ to improve court processes and outcomes while preserving the rule of law.

"Procedure" means a series of activities designed to implement problem-solving court goals or policy.

~~**"Process evaluation"** means a procedure to document and analyze the development and implementation of a program, to assess whether strategies were implemented as planned and to determine whether expected outputs were produced.~~

"Random chemical testing" means the odds of being tested are not impacted by human influences and are the same on any given day of the week, including weekends and holidays.

"Referring agency" means an entity ~~which~~ that maintains supervisory responsibility over any participant referred to a treatment or service provider as a condition of successful completion of a problem-solving court.

"Responsivity factors" means individual variables that influence or interfere with a participant's response to rehabilitation efforts.

"Risk and needs assessment" means the procedure used to determine the participant's ~~criminogenic~~ risk and needs using appropriately empirically validated instruments, including but not limited to the Indiana Risk Assessment System or the Indiana Youth Assessment System, for the purpose of determining eligibility and developing a case plan.

"Sanction" means a punitive response to reduce undesirable behaviors and increase desirable behaviors.

"Service adjustment" means alteration(s) to a participant's treatment requirements that are intended to address unmet clinical or social service needs and are not intended as an incentive or sanction.

"Supervising judge" means the judge who has ultimate responsibility for a problem-solving court. The supervising judge may or may not be the problem-solving court judge.

"Supervision" means a method of monitoring a participant's compliance with the participation agreement and case plan.

"Suspension" means the imposition of limitations on or a full cessation of problem-solving court activities and operations, or a staff member's ability to perform his/her job functions as determined by the Indiana Office of Court Services.

~~**"Therapeutic Adjustment"** means alterations to participant's treatment requirements that are intended to address unmet clinical or social service needs and are not intended as an incentive or sanction.~~

"Treatment plan" means a plan that addresses substance ~~abuse~~use or addiction and/or mental health issues by:

(a) identifying the individual participant's strengths and needs through assessment,

(b) defining goals and objectives based on identified ~~need~~needs, and

(c) establishing the services to be provided to assist with achieving the stated goals and objectives.

"Volunteer" means a person who, without direct financial remuneration, provides ongoing services to a problem-solving court.

Section 4. Funding and Training Authorization

(a) A court that is ~~not~~ certified by the Indiana Office of Court Services pursuant to IC 33-23-16 and these rules, and an applicant court whose plan of operation ~~does not comply~~ complies with the requirements for certification under these rules is ~~not~~ entitled to receive a favorable review or recommendation from the Indiana Office of Court Services on ~~any~~ an application for the funding of problem-solving court services from state, federal, or private funding sources.

(b) A court that is ~~not~~ certified by the Indiana Office of Court Services pursuant to IC 33-23-16 and these rules and a court actively planning the establishment of a problem-solving court and in compliance with Section 5 of these rules or as otherwise authorized by the Indiana Office of Court Services is ~~not~~ eligible to send staff ~~or~~ and other team members to problem-solving court training events sponsored by the Indiana Office of Court Services. ~~unless the court is actively planning the establishment of a problem-solving court and in compliance with section 5 of these rules or is otherwise authorized by the Indiana Office of Court Services.~~

Section 5. Notification of Intent

(a) A court shall notify the Indiana Office of Court Services in writing during the planning stages of the court's intention to establish a problem-solving court.

(b) The Indiana Office of Court Services may make recommendations to the court to undertake activities during the planning stages ~~in order~~ to prepare for certification. These recommendations may include participation in problem-solving court training programs, reviewing problem-solving court research and best practice documents, conducting site visits to certified problem-solving courts, or other appropriate activities.

(c) A letter of intent to establish a certified problem-solving court expires 18 months from the date of receipt by the Indiana Office of Court Services.

Section 6. Certification Procedures

(a) Provisional Certification Procedures

(1) A court that proposes to establish a problem-solving court pursuant to these rules shall do the following to become provisionally certified.

(A) Submit a completed application for provisional certification to the Indiana Office of Court Services.
(B) Submit a copy of the applicant problem-solving court's policy and procedure manual and supporting materials outlining the court's plan for operation in accordance with IC 33-23-16 and these rules.

(2) The Indiana Office of Court Services shall review the court's application and policy and procedure manual and conduct a site visit to determine whether the proposed court practices ~~are in compliance~~ comply with these rules, applicable federal and state law~~s~~, ~~rules and regulations~~ and the court's policy and procedure manual. The Indiana Office of Court Services may offer recommendations as appropriate to assist the applicant court ~~gain~~ in gaining compliance with applicable laws, rules, and evidence-based practices.

(3) The Indiana Office of Court Services must approve or deny the court's application for problem-solving court provisional certification.
(A) The Indiana Office of Court Services must approve the application for provisional certification if the court has submitted an application and policy and procedure manual that complies with IC 33-23-16, all ~~related~~ applicable federal and state law~~s~~, ~~rules and regulations,~~ these rules, and evidence-based practices, and identified appropriate resources to provide the services proposed.
(B) If the Indiana Office of Court Services denies the court's application for provisional certification, the Indiana Office of Court Services must follow the procedures outlined in section 7 of these rules.

(4) After a problem-solving court ~~receives~~ is awarded provisional certification ~~from~~ by the Indiana Office of Court Services, the problem-solving court may:
(A) assess and collect fees authorized by IC 33-23-16-23 and IC 33-23-16-24; and
(B) begin the delivery of services authorized by IC 33-23-16 in accordance with these rules.

(5) A problem-solving court provisional certificate is valid for up to six ~~(6)~~ months. ~~The provisional certificate must be displayed in a prominent place in the problem-solving court office and a copy shall be kept on file in the office of the Indiana Office of Court Services.~~

(b) Rec~~C~~ertification Procedures

(1) Prior to the expiration date of the problem-solving court certificate, the coordinator must initiate recertification in accordance with the following procedures:
(A) notify the Indiana Office of Court Services that the problem-solving court intends to apply for recertification and request an application for certification;
(B) schedule a review date; and
(C) submit an application for certification and all supporting materials to the Indiana Office of Court Services no later than ~~thirty (~~30~~)~~ days prior to the review date.

(2) The certification review shall include evaluation of each of the following:
(A) Compliance with IC 33-23-16 and ~~related~~ applicable federal and state law~~s~~, ~~rules and regulations,~~ including all applicable Indiana Supreme Court Rules.
(B) Compliance with these rules.

(C) Compliance with All Rise Adult Treatment Court Best Practice Standards~~; Center for Children and Family Futures and All Rise, Family Treatment Court Best Practice Standards; the problem-solving court principles; and the 10 key components of drug courts, as applicable~~.
~~(D) Implementation of the principles of effective interventions, as applicable.~~
(~~E~~D) Compliance with and implementation of current research on evidence-based practices and programs.
(~~F~~E) Judicial involvement with participants.
(~~G~~F) The operation of the case compliance hearings and other related court proceedings.
(~~H~~G) The number, qualifications, and abilities of ~~problem-solving court staff~~ the coordinator and case managers, as required by these rules.
(~~I~~H) The participation ~~by~~ and interaction ~~between~~ among the problem-solving court team members.
(~~J~~I) The qualifications and abilities of any contractor that provides services to the problem-solving court or its participants, and the contractor's compliance with the terms of the contract with the problem-solving court.
(~~K~~J) The qualifications and services of any treatment provider that provides treatment services to problem-solving court participants in accordance with all applicable law, and ~~the treatment provider's~~ compliance with the terms of the ~~provider~~provider's referral agreement with the problem-solving court.
(~~L~~K) The certification of any peer recovery specialist providing services to problem-solving court participants in accordance with the Division of Mental Health and Addiction requirements or an equivalent certifying agency recognized by the Division of Mental Health and Addiction.
(L) Investigations of complaints pertaining to the problem-solving court's compliance with IC 33-23-16, these rules, ~~and~~ or ~~related~~ applicable federal and state law~~s, rules and regulations~~.
(M) Any other issues or subjects that the Indiana Office of Court Services determines are relevant to the review.

(3) The Indiana Office of Court Services shall approve or deny the problem-solving court's application for recertification.
(A) If the Indiana Office of Court Services approves the problem-solving court's application for recertification, the Indiana Office of Court Services shall issue a certificate authorizing the court to operate as a problem-solving court for a period not to exceed three ~~(3)~~ years. ~~The certificate must be displayed in a prominent place in the problem-solving court office and a copy shall be kept on file at the Indiana Office of Court Services. Not later than sixty (60) days after completion of the certification review, t~~The Indiana Office of Court Services shall send a final certification report to the supervising judge, problem-solving court judge, and coordinator.
~~(B) If the Indiana Office of Court Services denies the problem-solving court's application for certification, the Indiana Office of Court Services must follow the procedures outlined in section 7 of these rules.~~

(c) Extension of the Certification Period
(1) Prior to the expiration date of the problem-solving court's certificate, a problem-solving court may submit a written request to the Indiana Office of Court

Services for an extension of time to continue operating pursuant to the court's current certificate. The court's request shall contain the reason(s) for the request and specify the length of the extension requested. The Indiana Office of Court Services has the sole discretion to approve or deny a request for an extension of time to continue operating a problem-solving court and to determine the length of the extension, authorizing continued problem-solving court operations.
(2) The Indiana Office of Court Services may issue a written extension of a court's provisional certificate for a period not to exceed one ~~(1)~~ year unless otherwise authorized by the Indiana Office of Court Services.
(3) The Indiana Office of Court Services may authorize an extension of time to continue operating a problem-solving court under a current certificate ~~in order~~ to complete the recertification process under this section or as otherwise appropriate.

~~(d) A problem-solving court certified pursuant to this section shall maintain compliance with IC 33-23-16, these rules and related federal and state laws, rules and regulations or the court's certificate is subject to revocation pursuant to section 8 of these rules.~~

(~~e~~d) A problem-solving court certificate obtained under this section expires on the date specified on the certificate unless the court has been granted an extension pursuant to subdivision (c)(3) of this subsection or the certificate has been revoked ~~in accordance with section 8 of these rules~~. A court with an expired or revoked certificate may no longer operate a problem-solving court as authorized by IC 33-23-16 and these rules. A court seeking certification following the expiration of a problem-solving court certificate shall follow the procedures in this section as directed by the Indiana Office of Court Services.

~~*Commentary on Section 6(b)(2)(c).*~~
~~*Adult Treatment Court Best Practice Standards Vol. I 2nd Ed. as published by All Rise:*~~

~~*I. Target Population: Eligibility and exclusion criteria for treatment court are predicated on empirical evidence indicating which individuals can be served safely and effectively. Candidates are evaluated expeditiously for admission using valid and culturally equitable assessment tools and procedures.*~~
~~*II. Equity and Inclusion: All persons meeting evidence-based eligibility criteria for treatment court receive the same opportunity to participate and succeed in the program regardless of their sociodemographic characteristics or sociocultural identity, including but not limited to their race, ethnicity, sex, gender identity, sexual orientation, age, socioeconomic status, national origin, native language, religion, cultural practices, and physical, medical, or other conditions. The treatment court team continually monitors program operations for evidence of cultural disparities in program access, service provision, or outcomes, takes corrective measures to eliminate identified disparities, and evaluates the effects of the corrective measures.*~~
~~*III. Roles and Responsibilities of the Judge: The treatment court judge stays abreast of current law and research on best practices in treatment courts and carefully considers the professional observations and recommendations of other team members when developing and implementing program policies and procedures.*~~

~~*The judge develops a collaborative working alliance with participants to support their recovery while holding them accountable for abiding by program conditions and attending treatment and other indicated services.*~~

~~*IV. Incentives, Sanctions, and Service Adjustments: The treatment court applies evidence-based and procedurally fair behavior modification practices that are proven to be safe and effective for high-risk and high-need persons. Incentives and sanctions are delivered to enhance adherence to program goals and conditions that participants can achieve and sustain for a reasonable time, whereas service adjustments are delivered to help participants achieve goals that are too difficult for them to accomplish currently. Decisions relating to setting program goals and choosing safe and effective responses are based on input from qualified treatment professionals, social service providers, supervision officers, and other team members with pertinent knowledge and experience.*~~

~~*V. Substance Use, Mental Health, and Trauma Treatment and Recovery Management: Participants receive evidence-based treatment for substance use, mental health, trauma, and co-occurring disorders from qualified treatment professionals that is acceptable to the participants and sufficient to meet their validly assessed treatment needs. Recovery management interventions that connect participants with recovery support services and peer recovery networks in their community are core components of the treatment court regimen and are delivered when participants are motivated for and prepared to benefit from the interventions.*~~

~~*VI. Complementary Services and Recovery Capital: Participants receive desired evidence-based services from qualified treatment, public health, social service, or rehabilitation professionals that safeguard their health and welfare, help them to achieve their chosen life goals, sustain indefinite recovery, and enhance their quality of life. Trained evaluators assess participants' skills, resources, and other recovery capital, and work collaboratively with them in deciding what complementary services are needed to help them remain safe and healthy, reach their achievable goals, and optimize their long-term adaptive functioning.*~~

~~*Adult Drug Court Best Practice Standards Vol. II as published by the National Association of Drug Court Professionals:*~~

~~*VII. Drug and Alcohol Testing: Drug and alcohol testing provides an accurate, timely, and comprehensive assessment of unauthorized substance use throughout participants' enrollment in the Drug Court.*~~

~~*VIII. Multidisciplinary Team: A dedicated multidisciplinary team of professionals manages the day-to-day operations of the Drug Court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment and supervision services.*~~

~~*IX. Census and Caseloads: The Drug Court serves as many eligible individuals as practicable while maintaining continuous fidelity to best practice standards.*~~

~~*X. Monitoring and Evaluation: The Drug Court routinely monitors its adherence to best practice standards and employs scientifically valid and reliable procedures to evaluate its effectiveness.*~~

~~*Center for Children and Family Futures and All Rise, Family Treatment Court Best Practice Standards:*~~

1. ~~*Organization and Structure-The family treatment court has agreed upon structural and organizational principles that are supported by research and based on evidence-informed policies, programs, and practices.*~~
2. ~~*Role of the Judge-Judicial leadership is critical to effective planning, implementation, and operation of the family treatment court.*~~
3. ~~*Equity and Inclusion-The family treatment court examines whether harmful disproportionality (unequal access) or disparities (unequal outcomes) exist within the program and, if so, implements reasonable corrective measures to eliminate them.*~~
4. ~~*Early Identification and Assessment-Early identification and assessment of eligible families provides the greatest opportunity to fully meet the needs of children and parents in family treatment court.*~~
5. ~~*Timely, Quality, and appropriate substance use disorder treatment-Substance use disorder (SUD) treatment is provided to meet the individual and unique substance- related clinical and supportive needs of persons with substance use disorders.*~~
6. ~~*Comprehensive Case Management, Services, and Supports for Families-The family treatment court ensures that children, parents, and families receive comprehensive services that meet their assessed needs and promotes sustained family safety, permanency, recovery, and well-being.*~~
7. ~~*Therapeutic Responses to Behavior-The family treatment court's operational team applies therapeutic responses (e.g., child safety interventions, treatment adjustments, complementary service modifications, incentives, and sanctions) to improve child, parent, and family functioning, ensure children's safety and well-being, support participant behavior change, and promote participant accountability.*~~
8. ~~*Monitoring and Evaluation-The family treatment court collects and reviews data to monitor participant progress, engages in a process of continuous quality improvement, monitors adherence to best practice standards, and evaluates outcomes using scientifically valid and reliable procedures.*~~

~~*The common problem-solving court principles as published by the Center for Court Innovation are:*~~

1. ~~*Enhanced Information: Better staff training (about complex issues like domestic violence and drug addiction) combined with better information (about litigants, victims and the community context of crime) can help improve the decision making of judges, attorneys, and other justice officials.*~~
2. ~~*Community Engagement: Citizens and neighborhood groups have an important role to play in helping the justice system identify, prioritize, and solve local problems. Actively engaging citizens helps improve public trust in justice. Greater trust, in turn, helps people feel safer, fosters law-abiding behavior, and makes members of the public more willing to cooperate in the pursuit of justice (as witnesses, jury members, etc.).*~~
3. ~~*Collaboration: Justice system leaders are uniquely positioned to engage a diverse range of people, government agencies, and community organizations in collaborative efforts to improve public safety. By bringing together justice players*~~

~~(e.g., judges, prosecutors, defense attorneys, probation officers, court managers) and reaching out to potential stakeholders beyond the courthouse (e.g., social service providers, victims groups, schools) justice agencies can improve inter-agency communication, encourage greater trust between citizens and government, and foster new responses—including new diversion and sentencing options, when appropriate—to problems.~~

4. ~~Individualized Justice: Using valid evidence-based risk and needs assessment instruments, the justice system can link offenders to individually tailored community-based services (e.g., job training, drug treatment, safety planning, mental health counseling) where appropriate. In doing so (and by treating defendants with dignity and respect), the justice system can help reduce recidivism, improve community safety, and enhance confidence in justice. Links to services can also aid victims, improving their safety and helping restore their lives.~~
5. ~~Accountability: The justice system can send the message that all criminal behavior, even low-level quality-of-life crime, has an impact on community safety. By insisting on regular and rigorous compliance monitoring—and clear consequences for non-compliance—the justice system can improve the accountability of offenders. It can also improve the accountability of service providers by requiring regular reports on their work with participants.~~
6. ~~Outcomes: The active and ongoing collection and analysis of data—measuring outcomes and process, costs and benefits—are crucial tools for evaluating the effectiveness of operations and encouraging continuous improvement. Public dissemination of this information can be a valuable symbol of public accountability.~~

~~The ten (10) key components of drug courts published by the Drug Court Program Office of the United States Department of Justice are:~~

1. ~~Drug courts integrate alcohol and other drug treatment services with justice system case processing.~~
2. ~~Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.~~
3. ~~Eligible participants are identified early and placed promptly in the drug court program.~~
4. ~~Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.~~
5. ~~Abstinence is monitored by frequent alcohol and other drug testing.~~
6. ~~A coordinated strategy governs drug court responses to participant compliance.~~
7. ~~Ongoing judicial interaction with each drug court participant is essential.~~
8. ~~Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.~~
9. ~~Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.~~
10. ~~Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.~~

~~The eight (8) principles of effective interventions as published by the National Institute of Corrections are:~~

~~1. *Assess actuarial risk/needs*~~
~~2. *Enhance intrinsic motivation*~~
~~3. *Target interventions*~~
~~4. *Skill train with directed practice*~~
~~5. *Increase positive reinforcement*~~
~~6. *Engage ongoing support in natural communities*~~
~~7. *Measure relevant processes/practices*~~
~~8. *Provide measurement feedback*~~

Section 7. Denial of Application for Certification and Revocation Procedures

(a) The Indiana Office of Court Services may deny an application for certification or revoke a problem-solving court certificate for one or more of the following reasons:

(1) Failure of the applicant court or the problem-solving court to comply with IC 33-23-16 and ~~related~~ applicable federal and state law~~s, rules and regulations~~.

(2) Failure of the applicant court or the problem-solving court to comply with the application or recertification requirements in section 6 of these rules.

(3) Permitting, aiding, or abetting the commission of an unlawful act by the applicant court or problem-solving court.

(4) Applicant court's or problem-solving court's conduct or practices are found by the Indiana Office of Court Services to:

(A) threaten public health or safety; or

(B) be harmful to the health or safety of any participant in the problem-solving court.

(5) Deviation from the plan of operation submitted with the application ~~or problem-solving court~~ that, in the judgment of the Indiana Office of Court Services, adversely affects the character, quality, or scope of services provided to participants.

(6) Failure of the applicant court or problem-solving court to cooperate with the Indiana Office of Court Services ~~in connection with~~ during the certification process or ~~an~~ investigation of a complaint ~~pertaining to~~ of the court's compliance with IC 33-23-16, these rules, and ~~related~~ applicable federal and ~~states~~ state law~~s, rules and regulations~~.

(7) Failure of the applicant court or problem-solving court to provide accurate or reliable information on the application or regarding the problem-solving court's operations or practices.

(b) The Indiana Office of Court Services must notify the supervising judge ~~and the problem-solving court judge, by certified mail, return receipt requested,~~ that the Indiana Office of Court Services intends to deny the application or revoke the court's problem-solving court certificate. The notice must contain all of the following information:

(1) A brief statement explaining the reasons for the proposed denial or revocation.

(2) If the problem-solving court is currently operational, notice that the Indiana Office of Court Services is ~~imposing a suspension on~~ suspending the problem-solving court's operations, if applicable. The suspension continues in effect until the conclusion of all ~~proceedings~~ review pursuant to these rules ~~and any judicial~~

~~review~~, unless earlier withdrawn by the Indiana Office of Court Services.
(3) A statement that the decision to deny the application or revoke the problem-solving court certificate is final unless the supervising judge submits ~~written objections~~a request for an administrative review to the Problem-Solving Courts Committee, in the care of the Indiana Office of Court Services, within 30 days from the date of the notice, stating why the application should not be denied, or the problem-solving court certificate should not be revoked.

~~(c) If objections to a proposed denial or revocation have been timely submitted, settlement of all the points of contention are not made and the Indiana Office of Court Services issues a second written notice of denial or revocation, the supervising judge may submit a request for a hearing on the matter in accordance with section 8(b) of these rules.~~

Section 8. ~~Hearing~~ Administrative Review Procedures

(a) All requests ~~for a hearing~~ to ~~resolve~~ review disputes relating to the denial or revocation of a problem-solving court certificate ~~pursuant to section 7~~ and staff qualification and training requirements ~~pursuant to section 12 of these rules~~ shall follow the procedures described in this section.

(b) ~~If the Indiana Office of Court Services denies a~~A supervising judge~~'s~~ may seek administrative review of ~~objections to~~ the denial of an application for certification or revocation of a certificate ~~pursuant to section 7, or staff work restrictions pursuant to section 12(f) or 12(g) of these rules, the supervising judge may request a hearing on the matter~~ as follows:
(1) The request must be submitted in writing to the Problem-Solving Courts Committee in the care of Indiana Office of Court Services within ~~fifteen~~ fourteen (~~15~~14) days from the date of the written notice of denial or revocation, ~~issued under section 7(c), section 12(f)(2)(C) or section 12(g)(3)(C) of these rules~~ and ~~must~~ state the reason(s) for the ~~hearing~~ review request.
(2) ~~The request for a hearing may not include any reason that was not included in the objections submitted under section 7(b), section 12(f) or section 12(g) of these rules, as applicable.~~ The problem-solving court may continue to operate pursuant to these rules pending the outcome of the administrative review, subject to any reasonable terms and conditions imposed by the Indiana Office of Court Services.

~~(c) Upon receipt of a request for a hearing, a hearing examiner shall be selected as follows:~~
~~(1) The executive director of the Indiana Office of Court Services shall create a list of three judges as candidates for hearing examiner who are members of the Problem-Solving Courts Committee (PSCC) but are not members of the Board of Directors of the Judicial Conference of Indiana. The executive director shall consider availability, years of service on the PSCC, and the extent of participation on the PSCC when creating the list of candidates.~~
~~(2) The candidates for hearing examiner shall be communicated in writing to the supervising judge no later than 15 days after the request for a hearing was~~

received by the Indiana Office of Court Services.
(3) The supervising judge shall select a hearing examiner from the list and advise the executive director of this selection in writing no later than 15 days after the list of candidates for hearing examiner was received by the supervising judge.

(dc) The The Problem-Solving Courts Committee Chair shall select a Hearing Panel comprised of three judicial members to serve as hearing officers. The administrative review may be carried out in-person, via a remote meeting or a combination of these options at the discretion of the Hearing Panel. hearing examiner shall conduct aninformal hearing within 30 days after the date the hearing examiner is selected by the supervising judge unless otherwise jointly agreed upon by the hearing examiner, supervising judge and the Indiana Office of Court Services.
(1) At least ten days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Office of Court Services with written notice of the date, time and place of the hearing. Within 30 days of receipt of the request for administrative review by the Indiana Office of Court Services, the Hearing Panel shall schedule an administrative review of the problem-solving court's request
(2) The hearing examiner administrative review is not required subject to follow any the formal rules of evidence or procedure.
(3) Both parties may submit supporting information and evidence to the Hearing Panel for consideration during the administrative review.
(4) All supporting information and evidence shall be due to the Hearing Panel no later than 14 days before the date of the administrative review.
(4) The Indiana Office of Court Services must show why the application does not meet the certification requirements established by the Judicial Conference of Indiana, that revocation of the certificate is justified or that one or more staff members have not met all training requirements.
(5) The hearing examiner shall make an electronic recording of the hearing. The supervising judge and the Indiana Office of Court Services may obtain a copy of the electronic recording of the hearing from the hearing examiner.
(6) The hearing examiner may ask the supervising judge and the Indiana Office of Court Services to submit proposed findings and recommendations to the hearing officer following the hearing.
(5) The Hearing Panel shall send a written decision, including any instructions for or conditions to continued problem-solving court operations, to the supervising judge and the Indiana Office of Court Services no later than 30 days following the administrative review. The Hearing Panel's decision is final.

(e) No later than 30 days after the date that the hearing under subsection (d) of this section was held, the hearing examiner shall send proposed written findings and recommendations to the supervising judge and the Indiana Office of Court Services.
(1) All objections to the hearing examiner's proposed findings and recommendations must be:
(A) in writing; and
(B) submitted to the hearing examiner with a copy to the other party no later than 15 days after the date that the proposed findings and recommendations were issued.

~~(2) The hearing examiner shall submit the proposed findings and recommendations to the PSCC unless the supervising judge submits written notice no later than 15 days after the proposed findings and recommendations were issued, that the supervising judge has decided to withdraw the objections.~~
~~(3) If no objections are submitted and the PSCC adopts the findings and recommendations as submitted, those findings and recommendations become final upon adoption. The PSCC's findings and recommendations must be adopted by a majority vote of the members.~~
~~(4) If the supervising judge or the Indiana Office of Court Services objects to the proposed findings and recommendations, or the PSCC proposes to modify or reject the proposed findings and recommendations, the PSCC must conduct an informal hearing and provide the supervising judge and the Indiana Office of Court Services with an opportunity to be heard orally concerning the proposed findings and recommendations. At least ten days before the date of the hearing, the PSCC shall provide written notice of the date, time and place of the hearing to the supervising judge and the Indiana Office of Court Services.~~
~~(5) No later than 30 days after date that the hearing under subdivision (4) was held, the PSCC shall submit its written findings and recommendations to the supervising judge and the Indiana Office of Court Services. The PSCC's findings and recommendations must be adopted by a majority vote of the members.~~

~~(f) The supervising judge or the Indiana Office of Court Services may request review of the PSCC's findings and recommendations by the Judicial Conference of Indiana Board of Directors.~~
~~(1) The request for review must be:~~
~~(A) in writing describing specific objections to the findings and recommendations adopted by the PSCC;~~
~~(B) submitted to the chairperson of the Board of Directors no later than 15 days after the date PSCC adopts its findings and recommendations; and~~
~~(C) submitted by the supervising judge or the Indiana Office of Court Services with a copy provided to other party.~~
~~(2) At least ten days before the meeting, the Indiana Office of Court Services shall provide written notice of the date, time and place of the Board of Directors' meeting to the supervising judge and the PSCC.~~
~~(3) The Board of Directors' findings and recommendations must be adopted by a majority vote of the members present and voting and are final.~~
~~(4) The Indiana Office of Court Services shall send written notice to the supervising judge and the PSCC of the Board of Directors' findings no later than ten days after the date of the meeting held pursuant to this subsection.~~

(~~g~~d) Upon the conclusion of the ~~proceedings~~ administrative review ~~under this section~~ for the denial of an application for certification or revocation of a problem-solving court certificate ~~pursuant to section 7 of these rules~~:
(1) If the court is ~~permitted~~ authorized to attain or retain problem-solving court certification, the problem-solving court shall comply with the findings and ~~recommendations adopted pursuant to this section~~ conditions imposed by the Hearing Panel, as well as IC 33-23-16 and these rules ~~in order~~ to maintain problem-solving court certification.

(2) If the court's application for certification is denied or the problem-solving court certificate is revoked, the court is not authorized to provide problem-solving services pursuant to IC 33-23-16, effective ~~on~~ the date of the ~~Board of Directors meeting held pursuant to subsection (f) of this section~~ Hearing Panel's written decision.

(~~h~~e) Upon the conclusion of the ~~proceedings~~ administrative review ~~under this section~~ for the ~~imposition~~ failure to meet~~of~~ staff qualifications or obtain staff training requirements ~~work restrictions pursuant to section 12 of these rules~~:

(1) If the problem-solving court is ~~permitted~~ authorized to lift staff work restrictions, the problem-solving court shall comply with the findings and ~~recommendations~~ conditions ~~adopted pursuant to this section~~ issued by the Hearing Panel, as well as IC 33-23-16 and these rules, to maintain problem-solving court certification.

(2) If the problem-solving court is not permitted to lift staff work restrictions, the problem-solving court shall comply with the restrictions ~~as~~ imposed by the ~~Indiana Office of Court Services~~Hearing Panel ~~in order~~ to maintain problem-solving court certification.

Section 9. Records of Problem-Solving Court Proceedings

(a) All problem-solving court hearings shall be recorded in accordance with the requirements of Ind. Trial Rule 74.

(b) A chronological case summary shall be created and maintained for each problem-solving court case in accordance with Ind. Trial Rule 77(B).

Section 10. ~~Ex Parte Communications~~Code of Judicial Conduct

(a) Problem-solving court judge and court employees shall retain independence and impartiality and avoid impropriety and the appearance of impropriety in all communication with and conduct involving problem-solving court participants. Judges and court staff must exercise caution and limit contact outside of court sessions and problem-solving court required activities with problem-solving court participants to meet all Code of Judicial Conduct requirements.

(b) A problem-solving court judge may initiate, permit, and consider ex parte communications with participants, attorneys, problem-solving court staff, problem-solving court team members, and others in conjunction with problem-solving court proceedings and the supervision of problem-solving court participants. Any authorized ex parte communication between the problem-solving court judge and others must comply with all other conduct requirements of the Code of Judicial Conduct.

Section 11. Notice of Change

(a) A problem-solving court shall submit written notice to the Indiana Office of Court Services of:

(1) Personnel changes, including new hires, dismissals, and resignations,

involving the supervising judge, problem-solving court judge, coordinator, or ~~a~~ case manager.
(2) Any location changes of the problem-solving court office or staff.
(3) Any change to the population(s) served by the problem-solving court.

(b) Notice of the changes required under this section shall be submitted to the Indiana Office of Court Services no later than 30 days after the change takes effect. The Indiana Office of Court Services may require a new application and certification review as a result of personnel or location changes or any changes to the population(s) served by the problem-solving court in accordance with section 6 of these rules.

(c) A problem-solving court that intends to cease providing problem-solving court services pursuant to IC 33-23-16 shall provide the Indiana Office of Court Services with written notice of the pending closure at least 30 days ~~prior to~~before the effective date of the closure. The written notice must include the court's reason(s) for closing and a plan for the transition of the participants to alternative services upon the closure of the problem-solving court.

Section 12. Judicial Officer and Staff Requirements

(a) A problem-solving court shall develop and observe policy and procedure describing problem-solving court judicial officer training requirements and staff qualifications and training requirements.

(b) A new problem-solving court judge shall attend and complete an orientation program approved by the Indiana Office of Court Services within the first year of serving on the problem-solving court bench. Problem-solving court judges are required to obtain at least six hours (virtual or in-person) of continuing education annually in evidence-based rehabilitation and crime prevention, conflict resolution, or crisis management to maximize the problem-solving court's outcomes.

(c) A problem-solving court shall maintain documentation that the coordinator complies with at least one of the following:
(1) has a baccalaureate degree from an accredited university or college, and
(a) the equivalent of three years of full-time paid experience in criminal justice or human services, or
(b) has an advanced degree from an accredited university or college in criminal justice or human services, or
(2) has an Associate degree from an accredited university or college in criminal justice or human services with a minimum of 5 years of full-time criminal justice or human services paid job experience, or
(3) has a minimum of 10 years of full-time criminal justice or human services paid job experience
~~(2) was employed by a problem-solving court as a coordinator or case manager before July 1, 2010.~~

(d) A problem-solving court shall maintain documentation that each case manager complies with at least one of the following:

(1) has a baccalaureate degree from an accredited university or college; ~~or~~
~~(2) was employed by a problem-solving court as a case manager before July 1, 2010~~
(2) has an Associate degree from an accredited university or college in criminal justice or human services with a minimum of 2 years of full-time criminal justice or human services paid job experience; or
(3) has a minimum of 5 years of full-time criminal justice or human services paid job experience.

(e) A volunteer that performs one or more job functions of the coordinator or a case manager as defined in section 3 of these rules shall meet the qualifications in subsection (b) or (c) of this section, as applicable.

(f) ~~The problem-solving court shall maintain problem-solving court personnel files for the coordinator, each case manager, and any volunteer who performs one or more job functions of the coordinator or a case manager.~~ The problem-solving court ~~personnel files~~ shall ~~contain~~ maintain ~~, at a minimum,~~ the following information for the coordinator, each case manager, and each volunteer who performs one or more job functions of the coordinator or a case manager:

(1) Date of hire or assignment to the problem-solving court for each position held or the date that a volunteer began providing services to the problem-solving court.
(2) Problem-solving court job description, including:
(a) Job title.
(b) Qualifications.
(c) Credentials, if applicable.
(d) Duties and responsibilities.
(e) Reporting and supervisory responsibilities.
(3) Documentation of the minimum job qualifications required by this section.
~~(4) Documentation of the accrued continuing education hours required by this section.~~

(g) The coordinator and each case manager shall attend and complete a staff orientation program approved by the Problem-Solving Courts Committee within the staff member's first year of employment with the problem-solving court.

(1) A coordinator or case manager employed by a problem-solving court prior to July 1, 2011, is not required to attend the staff orientation training under this section.
(2) A coordinator or case manager who fails to attend the staff orientation program within the first year of employment ~~is~~ may be prohibited from performing his or her job functions as defined in ~~section 3 of~~ these rules, following written notice of the imposition of work restrictions from the Indiana Office of Court Services~~except as authorized by the Indiana Office of Court Services pursuant to this subsection~~.
(A) The Indiana Office of Court Services shall send written notice to the supervising judge ~~and the problem-solving court judge~~ of a coordinator's or case manager's failure to attend and complete staff orientation as required by this subsection.

(B) A coordinator or case manager who has failed to attend staff orientation as required under this subsection may be prohibited from performing his or her job functions as defined in these rules until the staff member has completed staff orientation. T~~he Indiana Office of Court Services shall notify the supervising judge and the problem-solving court judge in writing of the Indiana Office of Court Services' decision to impose a suspension on a coordinator's or case manager's ability to perform his/her job functions as defined by these rules.~~

~~(C) The Indiana Office of Court Services' decision becomes final on the 30th day following the date of the written notification to the supervising judge unless the supervising judge submits specific written objections to the Indiana Office of Court Services before the expiration of the 30-day period.~~

~~(D) If the Indiana Office of Court Services and the supervising judge are unable to resolve all points of contention, the supervising judge may request a hearing in accordance with section 8(b) of these rules.~~

(h) The coordinator and each case manager shall complete 12 hours of continuing education annually, with six of those hours in evidence-based practices ~~as~~ approved by the problem-solving court judge.

(1) The coordinator shall maintain documentation of the continuing education hours earned by staff as required under this subsection ~~in the staff member's personnel file~~.

(2) The coordinator shall submit a report of earned continuing education hours for each staff member as required by this subsection on an annual basis to the Indiana Office of Court Services in conjunction with the problem-solving court's annual report ~~required under section 17(d)~~.

(3) A coordinator or case manager who fails to earn the required continuing education hours under this subsection ~~is~~ may be prohibited from performing his or her job functions as defined in ~~section 3 of~~ these rules following written notice of suspension from the Indiana Office of Court Services, ~~except~~ unless otherwise ~~as~~ authorized by the Indiana Office of Court Services.

~~(A) The Indiana Office of Court Services shall send written notice to the supervising judge and the problem-solving court judge of a coordinator's or case manager's failure to attain the annual continuing education hours required by this subsection.~~

~~(B) The Indiana Office of Court Services shall notify the supervising judge and problem-solving court judge in writing of the Indiana Office of Court Services' decision to impose a suspension on a coordinator's or case manager's ability to perform his/her job functions.~~

~~(C) The Indiana Office of Court Services' decision becomes final on the 30th day following the date of the written notification to the supervising judge unless the supervising judge submits specific written objections to the Indiana Office of Court Services before the expiration of the 30-day period.~~

~~(D) If the Indiana Office of Court Services and the supervising judge are unable to resolve all points of contention, the supervising judge may request a hearing in accordance with section 8(b) of these rules.~~

Commentary on Section 12(b). A judge who presides over multiple problem-solving

court models or a new problem-solving court model is encouraged to seek additional training. A supervising judge is strongly encouraged to attend new ~~problem solving~~problem-solving court judge orientation within the first year of supervising a problem-solving court.

Section 13. Problem-Solving Court Team

(a) A problem-solving court shall have a problem-solving court judge and a team approved by the problem-solving court judge consistent with this section. The problem-solving court team membership shall be limited to those individuals who either have a duty to monitor a participant's court case or who provide services directly to participants.

(1) Each of the following roles must be represented on the problem-solving court team, but an individual may represent more than one role:

(A) The coordinator;

(B) One or more case managers;

(C) One or more probation officers if the problem-solving court accepts individuals as a condition of probation;

(D) One or more community corrections officers if the problem-solving court accepts individuals as a condition of participation in a community corrections program;

(E) One or more parole agents or representatives if the problem-solving court accepts individuals as a condition of parole;

(F) The local prosecuting attorney or a representative from the prosecuting attorney's office if the problem-solving court accepts individuals under a criminal or delinquency case number;

(G) One or more criminal defense attorneys if the problem-solving court accepts individuals under a criminal or delinquency case number;

(H) One or more local mental health providers if ~~one (1) or more~~ the primary purpose of the court is to treat mental health disorders. ~~participants are receiving mental health services upon referral from the problem-solving cour~~t;

(I) One or more addiction treatment services providers if ~~one (1) or more participants are receiving addiction treatment services upon referral from the problem-solving court~~ the primary purpose of the court is to treat substance use disorders;

(J) One or more representatives from the Veterans' Administration if the problem-solving court accepts individuals pursuant to IC 33-23-16-10; and,

(K) One or more representatives from the Department of Child Services if the problem-solving court accepts individuals pursuant to IC 33-23-16-6 or IC 33-23-6-9.5.

(L) Service providers serving the individual needs of the family if the problem-solving court accepts individuals pursuant to IC 33-23-16-9.5.

(M) A Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL) if the problem-solving court accepts individuals pursuant to IC 33-23-16-9.5.

~~(2)~~ In addition to the members required under subdivision (1) of this section, the team may include any combination of the following:

(A) Any individual listed in subdivision (1) of this section that is not a required member;

(B) ~~A representative of the community transition program;~~

(C) A victim's representative or advocate;
(D) A school liaison, if serving a juvenile population;
(E) A pharmacist;
(F) A medical professional;
(G) A social worker providing direct services to participants;
(H) Laboratory for drug testing;
(I) Civil legal aid representative; and
(~~F~~J) A law enforcement officer~~; and,~~
(~~G~~)(K) ~~Any other member approved by the problem-solving court judge.~~A mentor coordinator or peer recovery specialist who does not directly serve participants.

(b) The problem-solving court shall maintain ~~on file~~ a description of the members of the problem-solving court team. The coordinator shall maintain a signed ~~a~~ memorandum of understanding for each team member that describes the team member's:
(1) agreement to uphold confidentiality requirements;
(2) commitment to the ~~on-going~~ ongoing exchange of participant information with the problem-solving court team members; ~~and~~
(3) problem-solving court responsibilities, including regular attendance and participation in the team staff meetings and problem-solving court case compliance hearings~~.~~; and
(4) Commitment to following lawful, safe, and effective best practices.

(c) The problem-solving court shall establish a policy and practice of regular team meetings to discuss the eligibility, progress, sanctions, and discharge of participants prior to the ~~participants'~~ scheduled court hearings.

(d) Each Peer Recovery Specialist working with participants shall be certified by DMHA. The coordinator shall maintain a signed a memorandum of understanding with each certified peer support professional, peer mentor, veteran mentor, and peer group sponsor that includes:
(1) the agreement to uphold confidentiality requirements;
(2) problem-solving court responsibilities, and
(3) regular attendance and participation in problem-solving court case compliance hearings.
(4) Peer support professionals, peer mentors, veteran mentors, and peer group sponsors may not be team members to preserve their special trustful and confidential relationships with participants.

Commentary on Section 13(a). ~~*The problem-solving court team membership should be limited to those individuals who either have a duty to monitor a participant's court case or provide services to participants.*~~

A problem-solving court ~~policy~~ advisory committee may also be ~~formed~~ established, and comprised of a variety of government officials and community stakeholders to assist in developing policy, marketing, and obtaining support for the problem-solving court.

Each member of the problem-solving court team should obtain sufficient in-service training each year to stay current in problem-solving court ~~related~~ ~~issues~~ best practices.

Section 14. Policy and Procedure

(a) A problem-solving court shall develop and observe a policy and procedure manual that contains written policies and procedures for conducting day-to-day problem-solving court activities.

(1) The coordinator is responsible for the daily operation and administration of the problem-solving court, including maintaining the policy and procedure manual.

(2) The problem-solving court judge is responsible for the supervision of the coordinator, leading the team meetings, and convening court sessions to communicate directly with participants and address compliance issues.

(~~2~~3) The policy and procedure manual shall:

(A) Contain a statement of goals and objectives that clearly ~~guides~~ guide the operation of the problem-solving court and the delivery of services.

(B) Incorporate the ~~principles of a problem-solving court and the ten key components of drug courts~~ Adult Treatment Court Best Practice Standards~~, as applicable,~~ into its policies and procedures.

(C) Be updated as needed, but at least annually.

(D) Be available to the problem-solving court team and staff.

(E) Reflect all current practices.

(~~3~~4) The problem-solving court's written policies and procedures shall include each of the following:

(A) Full documentation of the problem-solving court's operational and administrative structure.

(B) A description of all team member roles and responsibilities.

(C) A description of the problem-solving court participant eligibility criteria.

(1) If the problem-solving court accepts individuals under a criminal or delinquency case number, the eligibility criteria must include ~~including~~ the permissible legal status(es) under IC 33-23-16-13(3), eligible offenses, exclusion criteria, diagnostic criteria or informal assessment indicating the need for treatment ~~and~~ services, and risk and needs levels.

(2) If the problem-solving court accepts individuals under a civil case number, the eligibility criteria must include the permissible legal status(es) under IC 33-23-16-13(3), exclusion criteria, and diagnostic criteria.

(D) A policy and practice of nondiscrimination in providing problem-solving court services, including the unbiased, non-prejudicial, and non-harassment provision of services based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so (See CJC Rule 2.3(B)).

(E) Regular court hearings and problem-solving court team meetings to conduct case compliance monitoring.

(F) Regular child and team meetings if the problem-solving court accepts

individuals pursuant to IC 33-23-16-9.5.
(~~F~~G) Judicial interaction with participants during case compliance hearings.
(~~G~~H) A description of the problem-solving court's incorporation and implementation of t~~he principles of effective interventions and~~ evidence-based practices in its practices and programming.
(~~H~~I) A description of the range of services and supervision provided to participants based on assessed risk and/or need in compliance with ~~the principles of effective interventions and~~ evidence-based practices.
(~~I~~J) A detailed description of the problem-solving court's participant medication use policy and procedure, including prescription medication, over-the-counter medication (including a prohibited substance list), and ~~medication assisted~~ medication-assisted treatment.
(~~J~~K) A description of the court's field visitation and search practices, including the authorization required for a field visit, when a field visit is conducted (random, for cause, etc.), authority to conduct searches, and search parameters, if applicable.
(L) A detailed description of the process for responding to violations of problem-solving court requirements and the imposition of sanctions during court status hearings. If a participant disputes the violation, the participant shall be provided with a fair hearing with notice of the allegations, the opportunity to provide and refute evidence, and a clear rationale for the judge's decision. A full adversarial or evidentiary hearing is not required before imposing sanctions.
(~~K~~M) Participants may not, at any time, be compelled to waive or be prohibited from exercising the right to counsel.
(N) A detailed description of the court's risk-based phase structure, including the requirements for phase advancement, frequency of case compliance hearings and case management appointments, and required treatment and pro-social activities.
(O) Other information as required by these rules.

~~(b) Participants may not, at any time, be compelled to waive or be prohibited from exercising the right to counsel.~~

(~~c~~b) If a problem-solving court refers a participant to a provider, including an individual, for substance abuse or mental health treatment services not provided by the problem-solving court, the problem-solving court or referring agency shall verify that the provider is an addictions or mental health treatment services provider currently certified by the Division of Mental Health and Addiction, or currently certified, licensed or accredited by an equivalent certifying agency and maintain a copy of the provider's current certification or license.

(~~d~~c) The problem-solving court ~~or referring agency~~ shall have a written referral agreement with a substance ~~abuse~~use or mental health treatment services provider if the problem-solving court has referred ~~or plans to refer ten or more~~ participants to the provider ~~for treatment in any calendar year~~. The written referral agreement shall include, but not be limited to, procedures for the following:
(1) Initiation and acceptance of referrals;

(2) Exchange of participant-related information; and,
(3) Post-referral reporting by the treatment services provider that enables the problem-solving court to perform its monitoring responsibilities.

(~~e~~d) A problem-solving court may contract with a person, firm, corporation, association, or governmental entity~~,~~ to provide one or more services for the problem-solving court, except participant legal eligibility determination and participant discharge. A contractor must possess and demonstrate the capability to provide contractual services for the problem-solving court in the manner intended to meet all requirements in IC 33-23-16 and these rules that apply to the services the contractor provides.

~~*Commentary on Section 14(a)(3)(L). The policy and procedure may detail participant reporting requirements, the use of consent forms to communicate with treating physicians, the use of INSPECT to monitor prescription drug use and medication use monitoring protocols.*~~

~~*Commentary on Section 14(d). It is recommended that the referral agreement include an outline of the EBP curricula utilized by the provider for treatment and ancillary services provided to participants that has been demonstrated to improve outcomes for addicted persons within the criminal justice system.*~~
Commentary on Section 14(a). All problem-solving court participants who travel outside the State of Indiana are required to comply with the Interstate Compact for Adult Offender Supervision or the Interstate Compact for Juveniles (IC 11-13.5). Any time a participant relocates out of state for more than 45 days in 12 months, the problem-solving court shall consult the designated compact contact in the county to ensure compliance with all applicable rules.

Section 15. Fiscal Management

(a) The problem-solving court shall develop and observe written policy and procedure on fiscal management that identifies whether the clerk or the problem-solving court collects the fees and the statutory authority under which the problem-solving court fees are assessed.

~~governs cash handling procedures, establishes an accounting system, and complies with all applicable requirements of the Indiana State Board of Accounts.~~

(b) If a problem-solving court elects to charge fees authorized by these rules in accordance with IC 33-23-16-23, the problem-solving court shall develop and observe written policy and procedure on the assessment and collection of fees in accordance with all applicable State Board of Accounts requirements.

(c) A problem-solving court may require eligible individuals to pay a problem-solving court administration fee of not more than $100 per admission to a problem-solving court for initial problem-solving court services, regardless of the length of participation in the problem-solving court.

(d) A problem-solving court may require participants to pay a problem-solving

court services fee for each admission to a problem-solving court. The problem-solving court may assess a problem-solving court services monthly fee and collect the fee in an amount not to exceed $50 per month beginning with the second month of participation and for each month thereafter for the duration of participation in the problem-solving court.

(e) A problem-solving court may require participants transferring from or to another jurisdiction in Indiana to pay a transfer fee not to exceed $25.

(f) The problem-solving court shall adopt by local court rule a schedule of fees authorized by IC 33-23-16-23 for problem-solving court services.

(g) The problem-solving court fees authorized by IC 33-23-16-23 shall be assessed, collected, and utilized in accordance with IC 33-23-16-23 and IC 33-37-8.

(~~b~~h) Upon request, the problem-solving court shall provide the Indiana Office of Court Services with any and all relevant financial information, including reports, audits, or approvals issued by the Indiana State Board of Accounts.

~~(c)~~(i) The problem-solving court shall develop and maintain~~:~~ a current budget.
~~(1) A current budget.~~
~~(2) A documented schedule of fees for services provided by the court, including the adoption and maintenance of a local court rule as required by section 16(d) of these rules~~.

~~Section 16. Problem-Solving Court Fees~~

~~(a)~~ (d)I~~f a problem-solving court elects to charge fees authorized by these rules, the problem-solving court shall develop and observe written policy and procedure on the assessment and collection of fees.~~

~~(b) A problem-solving court may require eligible individuals to pay a problem-solving court administration fee of not more than $100 per admission to a problem-solving court for initial problem-solving court services regardless of the length of participation in the problem-solving court.~~

~~(c) A problem-solving court may require participants to pay a problem-solving court services fee for each admission to a problem-solving court. The problem-solving court may assess the problem-solving court services fee and collect the fee in an amount not to exceed $50 per month beginning with the second month of participation and for each month thereafter for the duration of participation in the problem-solving court.~~

~~(d) The problem-solving court shall adopt by local court rule a schedule of fees assessed for problem-solving court services authorized by IC 33-23-16-20.~~

~~(e) The problem-solving court fees authorized under this section shall be~~

~~collected and utilized in accordance with IC 33-23-16-23.~~

Commentary on Section 15(a). A problem-solving court may choose to assess problem-solving court user fees in accordance with IC 33-23-16-23 or as community corrections project income in accordance with IC 11-12-2-12.

Commentary on Section 15(c), (d), and (e). A problem-solving court shall determine if a participant is indigent in accordance with IC 35-33-7-6.5 when the problem-solving court assesses and collects problem-solving court fees. An indigent participant may not be held back from progressing through the problem-solving court or graduating solely on the basis that the participant is indigent and unable to pay assessed problem-solving court fees.

Commentary on Section 15(f). A problem-solving court is required to adopt a local court rule governing problem-solving court fees assessed pursuant to IC 33-23-16-23 to include the administration fee, monthly fee, and transfer fee. The problem-solving court's local court rule on problem-solving court fees is not required to include chemical testing fees assessed pursuant to IC 33-23-16-24.

Section ~~17~~16. Reports and Evaluations

(a) A problem-solving court shall collect statistical data as required by the Indiana Office of Court Services.

~~(b) A problem-solving court shall complete a process evaluation within the first three years of operation and at least once every three years thereafter. The problem-solving court shall complete outcome evaluations as appropriate.~~

(~~c~~b) A problem-solving court shall provide each participant with an opportunity to complete a survey intended to provide the problem-solving court with the participant's written comments about the services provided. The survey must include an opportunity to comment on each of the following:

(1) Services or programs provided directly by the problem-solving court.
(2) Services or programs provided by the problem-solving court through a contractor.
(3) Services or programs provided by referral agencies.

(~~d~~c) The coordinator shall:

(1) Prepare a written problem-solving court annual report for the preceding year that includes, at a minimum, each of the following:
(A) A summary of the problem-solving court's activities and accomplishments.
(B) A summary of the problem-solving court's income and expenditures, including all user fee account activity pursuant to IC 33-37-8, if applicable.
~~(C) Documentation of any certification reviews or visits, if applicable.~~
(~~D~~C) Problem-solving court performance measures data approved by the Problem-Solving Courts Committee.
(~~E~~) ~~The results of any process and outcome evaluations of the problem-solving court.~~

(D) An analysis of the problem-solving court's goals and objectives.
~~(F) A list of current problem-solving court staff and team members.~~
(~~G~~E) The staff earned continuing education hours required by ~~section 12 of~~ these rules.
(F) Any other information requested by the Indiana Office of Court Services.

(2) Submit a copy of the annual report to the local or regional Justice Reinvestment Advisory Council and Indiana Office of Court Services no later than March 31st of each year.

Section ~~18~~17. Eligibility and Referral

(a) A problem-solving court shall develop and observe written policy and procedure for referral to the problem-solving court and for determining an individual's eligibility for problem-solving court participation under IC 33-23-16-13.

~~(a)~~(b) A problem-solving court shall maintain a copy of the participant's court order to participate in the problem-solving court pursuant to IC 33-23-16-13(3) ~~in the participant's case management file~~.

(~~b~~c) A person may be eligible for participation in a problem-solving court that admits individuals under a criminal case number pursuant to IC 33-23-16-13(3)(A) or (B) if the offense for which the person will be admitted into the problem-solving court is a forcible felony as defined in IC 35-31.5-2-138 upon approval of the prosecutor.

(~~c~~d) A person may not be automatically ineligible to participate in a problem-solving court solely on the basis that the person has a co-occurring disorder, medical condition, ~~and/~~or is taking a legally prescribed psychotropic or addiction medication. A problem-solving court determines eligibility on a ~~case by case~~ case-by-case basis, with due consideration given to the available local treatment and problem-solving court resources.

(~~d~~e) A problem-solving court shall consider the results of a current assessment under the Indiana Risk Assessment System or Indiana Youth Assessment System in compliance with the policies adopted by the Judicial Conference of Indiana when determining the eligibility of an individual referred for problem-solving court participation under a criminal or delinquency case number.

(1) A problem-solving court is encouraged to accept high-risk individuals who meet one or more of the following criteria:
(A) Charged with a felony as opposed to a misdemeanor, and/or
(B) Have a history of felony convictions.

(2) A problem-solving court is encouraged to accept high-need individuals who have one or both of the following characteristics:
(A) Compulsive, chronic, or uncontrolled substance use disorder, and/or
(B) Chronic and uncontrolled mental illness.

(f) A problem-solving court shall consider the results of a validated needs assessment when determining the eligibility of an individual referred for problem-solving court participation under IC 33-23-16-6 or IC 33-23-16-9.5.

(1) A problem-solving court that accepts participants in these circumstances is encouraged to accept high-need individuals who have a chronic, uncontrolled substance use disorder, and/or chronic and uncontrolled mental illness.

(~~e~~g) A problem-solving court may utilize any additional appropriate empirically validated assessment instrument to determine an individual's eligibility for problem-solving court participation.

(~~f~~h) The problem-solving court judge must authorize all participant admissions to the problem-solving court.

(i) A problem-solving court that accepts individuals with varying levels of risk and need should serve participants using supervision and/or treatment services that matches the intensity appropriate to their assessed risk level.

Section ~~19~~18. Participation Agreement

(a) A problem-solving court shall develop and utilize a participation agreement that is filed with the problem-solving court and contains each of the following:
(1) The county or jurisdiction of the problem-solving court.
(2) The signature of each party to the participation agreement:
(a) Participant,
(b) Judge,
(c) Defense Counsel, as applicable,
(d) Prosecuting Attorney, as applicable, and
(e) Department of Child Services representative, as applicable.
(3) The source of the court's jurisdiction under IC 33-23-16-13(3).
(4) The case number(s) accepted into the problem-solving court.
(5) The length of the problem-solving court program.
(6) A list of rights the participant must waive in order to participate in the problem-solving court.
(7) An advisement that the participants may not, at any time, be compelled to waive or be prohibited from exercising the right to counsel.
(~~7~~8) A list of problem-solving court requirements.
(~~8~~9) The problem-solving court ~~participation~~ home visit and search conditions for the purposes of problem-solving court compliance.
(~~9~~10) An advisement that the participant will be subject to assessment utilizing the Indiana Risk Assessment System or the Indiana Youth Assessment System throughout participation in the problem-solving court if the participant is admitted into the problem-solving court under a criminal case number or delinquency petition. The results of any such assessments will be entered into the risk assessment system database.
(~~10~~11) The impact of successfully completing problem-solving court on the case number(s) under which the participant was admitted into problem-solving court.
(~~11~~12) The legal consequences to the participant as a result of termination from problem-solving court.
(~~12~~13) Information related to problem-solving court fees.
(~~13~~14) An advisement that the participant is subject to sanctioning in accordance

with problem-solving court policy and procedure.
(15) An advisement that the participant's case and compliance, including information that might otherwise be confidential, will be discussed in open court.
(16) An advisement that test results and statements of use made by the participant shall be admissible only in problem-solving court proceedings to prove a violation of problem-solving court requirements or establish grounds for termination from the problem-solving court.

(b) A problem-solving court shall develop and observe written policy and procedure providing each participant referred to the problem-solving court with the opportunity to review and discuss the participation agreement with an attorney ~~prior to~~before ~~entering~~ executing ~~into~~ the agreement. Documentation evidencing that the participant consulted with or waived the opportunity to consult with an attorney shall be maintained in the participant's case management file.

(c) Evidence that the executed participation agreement was filed with the problem-solving court shall be maintained in the participant's case management file.

Commentary on Section ~~19~~18(a). Participants are entitled to good time credit for time spent confined while participating in a problem-solving court pursuant to IC 35-50-6. If the problem-solving court chooses not to award eligible good time credit, the participation agreement must contain a provision advising the participant that statutory good time credit will not be earned as a condition of problem-solving court participation.

Section ~~20~~19. Confidentiality of Records

(a) A problem-solving court shall develop and observe written policy and procedure that ensures the confidentiality and security of participant records in accordance with all applicable laws. All information contained in problem-solving court participant case management files is confidential and may only be released in accordance with the appropriate legal authority or problem-solving court policy and procedure as established under this section.

(b) A problem-solving court shall develop and observe policy and procedure governing the release of participant records in problem-solving court participant case management files not otherwise governed by subsection (c) of this section pursuant to all applicable state law, including the Rules on Access to Court Records.

(c) A problem-solving court that refers participants to substance ~~abuse~~use services shall develop and observe written policy and procedure, conforming to applicable state and federal laws, that ensures the confidentiality and security of these participant records. At a minimum, the policy and procedure shall include the following:
(1) The confidentiality of drug and alcohol ~~abuse~~use patient records in compliance with 42 CFR Part 2, including:
(A) What information is confidential.
(B) Who is covered by the regulations, including minor participants, mentally incompetent participants, and deceased participants.
(C) When disclosure of protected information requires consent.

(D) When disclosure of protected information does not require consent.
(E) The execution of the release of information forms as required in subsections (d) and (e) of this section.
~~(E)~~(F) Violations may be reported to the HHS Office for Civil Rights.
~~(F)~~(G) Participant access to records.
~~(G)~~(H) Documentation in the participant case management file of the release of all confidential information.

(d) A problem-solving court that admits a participant under a criminal case number and refers that participant to substance ~~abuse~~use services shall create and utilize a criminal justice (non-revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to and among the problem-solving court team members, the referring court, and providers for the purpose of monitoring the participant's progress in problem-solving court.

(1) The staff member completing the consent form shall cross out or mark "NA" on any blank lines remaining after the form has been completed to ensure the form is not altered after execution and sign the consent form.
(2) ~~The~~ All release of information forms with the participant's ~~original~~ signature shall be maintained in the participant's file.
(3) A copy of the signed release of information form shall be provided to the participant.

(e) A problem-solving court that admits a participant under a juvenile case number or a civil case number and refers that participant to substance ~~abuse~~use services shall create and utilize a ~~general~~ Team (revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to and among the problem-solving court team members and providers. A problem-solving court that admits a participant under a criminal, delinquency or civil case number and refers that participant to substance ~~abuse~~use services may also create and utilize a general (revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to other individuals designated by the participant.

(1) The staff member completing the consent form shall cross out or mark "NA" on any blank lines remaining after the form has been completed to ensure the form is not altered after execution, and sign the consent form.
(2) ~~The~~ All release of information forms ~~with the~~executed by a participant~~'s original signature~~ shall be maintained in the participant's file.
(3) A copy of the signed release of information form shall be provided to the participant.

(f) Chronological case summary entries shall be brief and contain only non-confidential information to the extent possible.

(g) In order to protect participant confidentiality, the problem-solving court's facilities, including waiting rooms, offices, chemical testing facilities, and group areas other than the ~~court~~ courtroom ~~room~~ shall be arranged in a way that minimizes disclosure of confidential information to the general public.

(h) The facilities shall provide adequate space for the storage of all participant case management files and permit participant case management files to be properly secured at all times as required under federal regulations and state rules. All participant records created or maintained in electronic format shall be properly secured at all times with security measures designed to ensure access is restricted to authorized staff only. The problem-solving court shall comply with Ind. Administrative Rule 6 and Ind. Administrative Rule 7 governing the storage, retention, and disposal of judicial records.

Section ~~21~~20. Orientation

(a) A problem-solving court shall develop and observe a written policy and procedure for conducting orientation with each participant, and when appropriate, the participant's family.

(1) The policy and procedure for orientation shall include an explanation of each of the following:

(A) Specific eligibility requirements for problem-solving court participation, including the fact that a person does not have a right to participate in problem-solving court.

(B) The services offered by the problem-solving court either directly, by contract or by referral.

(C) The requirements for successful completion of problem-solving court, including a description of the scheduling and attendance requirements for court dates, chemical testing, day reporting, appointments with case managers and treatment providers, self-help and other group meetings, and other regularly scheduled requirements for phase advancement and graduation.

(D) Conduct and behavior that could result in incentives, sanctions, ~~therapeutic~~ service adjustments, or termination from problem-solving court.

(E) The range of incentives and sanctions for compliance and non-compliance with problem-solving court requirements.

(F) The circumstances under which a ~~therapeutic~~ service adjustment, as determined by the problem-solving court team in consultation with a treatment provider, may be imposed.

(G) Information about the treatment providers used by the problem-solving court, including name, address, telephone number, and services provided.

(H) Information regarding the cost to participants for problem-solving court services, day reporting, home detention and work release, chemical testing, treatment services and any other programs and services, and the procedure and schedule for paying these fees.

(I) Information about the problem-solving court's policy and procedures for scheduling and conducting chemical tests.

(J) Information summarizing the federal confidentiality law and ~~to whom suspected~~ violations may be reported~~, as applicable~~ to the Office for Civil Rights.

~~(2) Orientation may be conducted during an individual or a group appointment.~~

(b) A problem-solving court shall create and use a form or signature page to

~~advise~~ memorialize that each participant ~~in writing~~ was advised of the information described in subsection (a) of this section. The form must contain a signature line ~~or a signature page~~ for the participant to indicate that the participant has been provided a copy of the form, understands the information provided, and agrees to comply with all participation requirements. The problem-solving court shall maintain the form or the signature page with the participant's ~~original~~ signature in the participant's case management file.

Section ~~22~~21. Risk and Needs Assessment

(a) A problem-solving court considering an individual's eligibility for problem-solving court participation and admitting participants under a criminal case number or delinquency case number shall develop and observe written policy and procedure for scheduling, conducting, and implementing case plans based on the results of risk and needs assessments utilizing the Indiana Risk Assessment System (IRAS) or the Indiana Youth Assessment System (IYAS).

(b) The IRAS/IYAS risk and needs assessment policy, procedure, and practice shall meet each of the following criteria:

(1) Risk and needs assessments shall be conducted by an individual certified by the Indiana Office of Court Services in accordance with the Indiana Youth Assessment System and Indiana Risk Assessment System user certification policy adopted by the Judicial Conference of Indiana Board of Directors.

(2) If the risk and needs assessment results suggest that the participant requires a more detailed evaluation in a particular area such as substance ~~abuse~~use, mental health, etc., the participant shall be referred to an appropriate provider for further evaluation.

(3) Reassessments shall be conducted in accordance with the Indiana Youth Assessment System policy or the Indiana Risk Assessment System policy as adopted by the Judicial Conference of Indiana Board of Directors.

(4) Each participant shall be reassessed upon discharge from the problem-solving court.

(5) A copy of the summary page of the initial assessment and any reassessments conducted during problem-solving court participation shall be maintained in the participant's case management file.

(6) The confidentiality of participant risk assessment information shall be maintained in accordance with the policy adopted by the Judicial Conference of Indiana Board of Directors.

(7) The results of a participant's risk and needs assessments shall be provided to the treatment provider(s) providing services to that participant.

(c) A problem-solving court may develop and observe written policy and procedure for scheduling and conducting assessments utilizing any appropriate empirically validated assessment instrument to determine the needs of individuals referred and admitted to the court under a civil case number or the needs of individuals referred and admitted under a criminal case number or delinquency petition, in addition to the IRAS/IYAS.

Section ~~23~~22. Case Plan

(a) The problem-solving court shall develop and observe written policy and procedure for creating and updating a case plan that addresses responsivity factors for each participant based on the results of the risk and needs assessment conducted pursuant to section ~~22~~ 21 of these rules and any other assessments completed by problem-solving court staff or a treatment or services provider.

(b) The case plan shall address each domain of the IRAS/IYAS identified as high or moderate ~~in which~~if the participant was admitted to the problem-solving court under a criminal or delinquency case number. The case plan may address the following additional components:

(1) Supervision, including work release, home detention, day reporting, electronic monitoring, and chemical testing.
(2) Mental health treatment services.
(3) Substance ~~abuse~~use treatment services.
(4) Anger management.
(5) Community and victim services.
(6) Faith-based services.
(7) Employment services.
(8) Restitution.
(9) Housing services.
(10) Domestic violence services.
(11) Education services.
(12) Life skills.
(13) Medical services.
(14) High-risk health behaviors.
(15) Dental services.
(16) Family and interpersonal counseling.
(17) Parenting counseling.
(18) Child visitation.
(19) ~~Trauma informed~~Trauma-informed services.

(c) The problem-solving court shall provide a copy of the case plan to the participant and document the participant's receipt of the plan in the participant's case management file. The case plan shall be maintained in the participant's case management file.

(d) The problem-solving court shall develop and maintain a policy and procedure for periodically updating the case plan by creating subsequent case plans maintained in the participant's case management file, documenting plan modifications through written updates submitted by the case manager and maintained in the participant's case management file or through progress notes maintained in the participant's case management file.

Commentary Section ~~23~~22(b). Problem-solving courts admitting participants as an order in a dispositional decree under IC 31-34-20 should develop and observe a ~~case-plan~~ case plan based on the results of an empirically validated safety or risk

assessment tool.

Section ~~24~~23. Case Management

(a) The problem-solving court shall develop and observe policy and procedure for recording participant progress in the participant's case management file.

(b) The participant case management files kept by the case manager shall comply with the following:

~~(1) Progress notes shall be filed or maintained in chronological order, either integrated or by type of record.~~

~~(2) Progress notes shall contain the date and the signature, name, or initials of the staff member making the entry.~~

(~~3~~1) Contain p~~P~~rogress notes ~~shall~~ documenting ~~of~~ the following:

(A) All contact with the participant.

(B) All contact with an individual or an agency directly regarding the participant.

(~~4~~2) Contain all records as required by these rules.

(c) ~~(c)~~ The case manager shall monitor the participant's compliance with the participation agreement and the case plan. The case manager shall facilitate, coordinate, and monitor the full range of basic human needs, treatment, and service resources and delivery for problem-solving court participants in accordance with these rules, the policies and procedures of the problem-solving court, service provider(s), and treatment provider(s).

(d) The problem-solving court shall develop and observe written policy and procedures for scheduling and conducting office visits, to include:

(1) Frequency, and

(2) The use of effective communication and intervention skills to support the participant's well-being, meet personal needs, and promote accountability through cognitive strategies.

Section ~~25~~24. Chemical Testing

(a) The problem-solving court shall require participants to submit to chemical testing to determine the participant's use of alcohol and drugs.

(b) The problem-solving court shall develop and observe written policy and procedures for scheduling and conducting chemical tests, to include:

(1) The specific method or methods of chemical testing used, including what samples

~~(2) What samples~~ are collected and tested, such as urine, blood, breath, sweat, or saliva.

(~~3~~2) Substances identified by testing.

(~~4~~3) A scientifically valid ~~The~~ cutoff level for each substance collected.

(~~5~~4) A description of the problem-solving court's collection protocols, including random chemical testing procedures, for-cause testing policy, location of testing,

testing hours, participant reporting timeframe following notice based on the type of sample(s) collected~~, ~~. ~~and staff responsible for specimen collection~~.

(5) The frequency of chemical testing designed to ensure that unauthorized substance use is detected throughout participation in the problem-solving court. Chemical test should be administered at least twice per week until participants have achieved early remission of their substance use disorder and are reliably engaged in recovery management activities and preparing for graduation.

(6) Any changes to the problem-solving court's mandatory collection protocols shall follow consultation with an addictions treatment services provider certified by DMHA or certified, licensed, or accredited by an equivalent certifying agency.

(7) Collection procedures, including witnessed collection, staff training, staff responsible for collecting the sample, and sample chain of custody.

(8) The problem-solving court's policy on missed tests, adulterated samples, dilute samples, and inadequate samples.

(9) The cost of and payment procedures for chemical testing.

(10) Circumstances requiring a confirmation test, if any.

(A) The problem-solving court's procedures for confirmation ~~including the type of confirmation test used~~ testing.

(B) The party responsible for paying the cost of a confirmation test.

Commentary Section ~~25~~24(b)(5). Consult your toxicologist for the detection window for the type of sample(s) collected by your court.

Commentary Section ~~25~~24(b)(6). Consultation with an ~~addictions~~ addiction treatment services provider may occur during a problem-solving court team meeting. It is recommended that a problem-solving court obtain a substance ~~abuse~~use assessment conducted by an addictions treatment services provider certified by DMHA or certified, licensed or accredited by an equivalent certifying agency with a determination that the participant does not have a substance ~~abuse~~use disorder, as such instances may occur in mental health courts, veterans' treatment court, and reentry courts, etc. prior to discontinuing mandatory chemical testing protocols.

Section ~~26~~25. Transfers

(a) A problem-solving court may initiate and/or accept transfers of individuals from another court.

(b) A problem-solving court that permits participants to transfer out of the county or accepts the transfer of individuals in from another county shall develop and observe written policy and procedure for the consideration of transfer applications to include the following:

(1) An individual does not have a right to a problem-solving court transfer. The sending and receiving courts have the discretion to approve or deny a transfer application. A transfer is deemed approved only if both the sending and receiving courts approve the transfer request in writing.

(2) A problem-solving court transfer received from another county shall be for the purposes of supervision and problem-solving court participation only, including intermittent sanctioning authority. The problem-solving court shall send the

individual back to the sending court when the participant has completed all of the problem-solving court's participation requirements or has been terminated from the problem-solving court.
(3) The sending court shall retain jurisdiction over case disposition following successful completion of or termination from a problem-solving court.

(c) A problem-solving court may accept a transfer from another court within in the same county in accordance with local court rules and/or local court administrative policy and Administrative Rule 8(C).

(d) A problem-solving court transfer fee may be charged to an individual for any approved transfer within Indiana.
(1) A participant may be charged a transfer fee by both the sending and receiving problem-solving courts.
(2) The problem-solving court transfer fee may not exceed $25.
(3) The problem-solving court shall adopt by local court rule the fee assessed to participants for a problem-solving court transfer.

(e) The problem-solving court fees for transfers within Indiana authorized under this section shall be collected and utilized in accordance with IC 33-23-16-23.

~~(f) All problem-solving court participants who travel outside the State of Indiana are required to comply with the Interstate Compact for Adult Offender Supervision or the Interstate Compact for Juveniles (IC 11-13.5). Any time a participant is required to travel out-of-state for more than 45 days in a 12-month period, the problem-solving court shall consult the designated compact contact in the county to ensure compliance with all applicable rules of the Interstate Compact for Adult Supervision or Interstate Compact for Juveniles.~~

Section ~~27~~26. Incentives, Sanctions, and ~~Therapeutic~~ Service Adjustments

(a) The problem-solving court shall develop and observe written policy and procedure for administering incentives, sanctions, and ~~therapeutic~~ service adjustments to participants, including:
(1) The range of behaviors which may result in incentives and examples of incentives awarded by the problem-solving court~~, including;~~.incorporating pro-social activities to reduce undesirable behaviors.
~~(A)~~ (2) Behavioral criteria for phase advancement and graduation are objective, realistic, and clearly defined based on clinical achievements, and
~~(B) Focus on pro-social behavior to reduce undesirable behavior.~~
~~(2)~~ (3) The range of behaviors which may result in sanctions, up to and including termination, and the range of sanctions that may be imposed by the problem-solving court, incorporating;
(A) Proximal and distal goals and behaviors,
(B) Progressive disciplinary action, and
(C) Specific policy, procedure, and practice governing the use of jail sanctions.
(4) The procedures for responding to violations and imposing sanctions on a

problem-solving court participant.

(5) The circumstances under which a ~~therapeutic~~ service adjustment, as determined by the problem-solving court team in consultation with a treatment provider, may be imposed by the problem-solving court and the behaviors which may elicit these actions.

Section ~~28~~27. Discharge Procedures

(a) The problem-solving court shall develop and observe written policy and procedure for processing the discharge, successful completion, or termination~~,~~ of all participants under the problem-solving court's jurisdiction pursuant to IC 33-23-16-13(3). Written notice shall be provided to the referring court or agency after the participant has successfully complied with ~~the participant's participation agreement and case plan~~ problem-solving court requirements, or has been terminated from the problem-solving court.

(b) Termination proceedings shall include the following participant rights:
(1) written notice of the alleged violation(s);
(2) a hearing in open court before the problem-solving court judge or another judicial officer;
(3) representation by counsel;
(4) disclosure of the evidence against the participant;
(5) an opportunity to be heard and present evidence;
(6) confrontation and cross-examination of witnesses; and
(7) a determination that the participant violated one or more conditions of the ~~participant's participation agreement or case plan~~ problem-solving court by a preponderance of the evidence.

Commentary Section ~~28~~27(b): Termination is appropriate if a participant can no longer be safely managed in the community, repeatedly fails to comply with treatment or supervision requirements, or is not amenable to available treatment options.