

MAGISTRATES COURT

PRACTICE DIRECTION NO 2 OF 2001

Drug Rehabilitation (Court Diversion) Act 2000 Referrals for Assessment to Pilot Program Courts

The aim of this Direction is to assist referring Magistrates in pilot program courts with a system aimed at reducing the number of defendants being referred for assessment to Pilot Program Courts (“the Drug Court”).

Currently, the number of referred defendants outweighs the Drug Court’s capacity to absorb them. This is creating delays in dealing with defendants. This new procedure reflects the fact that resources exist for 141 participants only to be on Intensive Drug Rehabilitation Orders at any one time.

From 1 July 2001, the following procedures will apply –

1. The Drug Court Manager will advise the Magistrate in charge of each referring court when vacancies for assessment become available in the Drug Court sitting in that location.
2. The information gained is to be delivered to the relevant Magistrate as soon as practicable but before the beginning of court on each day.
3. If no place is available for assessment of a defendant on the Drug Court waiting list, the Magistrate should not ordinarily (i.e. unless special reasons exist and the matter has been discussed with the Drug Court Manager) make an order referring the defendant for assessment under the *Drug Rehabilitation (Court Diversion) Act 2000* in respect of the charges then before the court. The defendant must then be dealt with by way of a further adjournment, if requested, by sentencing or by way of a committal hearing, or otherwise according to law.
4. However, if the same defendant appears again on a later date charged with different offences, the defendant is not to be regarded as disqualified from being referred for assessment only because he or she has previously been refused a referral on the ground stated in paragraph 3 above. The process then would be in accordance with paragraphs 2 and 3.

5. If the defendant is granted an adjournment because no place is available for a defendant on the drug court waiting list and if the defendant is remanded on bail, the Magistrate should, in keeping with the spirit of the *Drug Rehabilitation (Court Diversion) Act 2000*, consider whether inclusion of all or any of the following conditions of bail will assist the Magistrate to be satisfied the defendant is not an unacceptable risk under the *Bail Act 1980*:
- (a) the defendant admitting him/herself into a detoxification unit (eg the HADS unit at the RBH, Herston) until the defendant is detoxed from the nominated drug in the opinion of the Clinical Nurse Consultant (CNC) and until discharged by the CNC, and that the defendant comply with all rules and requirements of the detox unit;
 - (b) drug testing twice per week by a GP;
 - (c) attending weekly drug counselling at the local Alcohol Tobacco and Other Drug Services (ATODS), Queensland Health;
 - (d) written authorisation be provided by the defendant to the GP and Counsellor to provide all drug test results and reports about attendance or non-attendance at counselling or for drug testing to the OIC of Police Prosecutions or the OIC of police at a relevant police station;
 - (e) abstaining from eg alcohol, illicit drugs, and medications which can mask urine test results such as codeine and pseudoephedrine;
 - (f) reporting a number of times per week to the OIC of police at a relevant police station;
 - (g) residing at a nominated residential drug rehabilitation facility (but only if assessed suitable by the facility) and complying with all rules and requirements of that facility;
 - (h) any other condition that may assist the defendant's rehabilitation from drug dependency (and consequently reduce the risk of the defendant reoffending or absconding) for example, continuing to take prescribed medication for depression.

(DM FINGLETON)
CHIEF MAGISTRATE

20 June 2001