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## **ARTICLE 34: DRIVING UNDER THE INFLUENCE OF ALCOHOL/DRUGS**

### **34.01 APPLICABILITY**

(a) The provisions of Article 34 shall apply in all cases involving the operation of a motor vehicle under the influence of alcohol or other drug (DUI), whether the offense is charged under the Illinois Vehicle Code (625 ILCS 5/11-501 *et seq.*) or under a similar local ordinance. Where reasonable, these provisions shall be construed and applied in harmony with the provisions of Articles 30, 31, 32, 33, 35 and 36.

### **34.02 MONITORING**

(a) The Department of Probation and Court Services in DuPage County, 503 N. County Farm Road, Wheaton, IL 60187, shall provide supervision services to all offenders placed on Court Supervision or sentenced to Conditional Discharge for the offense of driving under the influence of alcohol/drug and/or any charge of reckless driving that is a reduced charge of a DUI.

(b) Offenders will be required to report as directed by the Department. Minimally, reporting will consist of the following:

(i) The initial contact will include registration with the Department, assignment of date to attend Victim Impact Panel, distribution of Department's Court Authorized list of approved providers, review of the offender's court order, and any other information concerning conditions as ordered by the Court.

(ii) Offenders will be directed to provide documentation of compliance with Court orders upon completion of each Court requirement. This documentation will be reviewed by Department personnel for verification purposes. Upon successful completion of all court-ordered requirements, the Department personnel will submit a certificate of completion to Court and waive the defendant's appearance on the final court date.

In the event that the Department determines that a defendant is in violation of the court order and intermediate sanctions are deemed inappropriate, the Department will submit a notice of violation to the State's Attorney's Office and the Court. A Court hearing shall be scheduled, and the offender shall be given notice to appear in Court. A violation hearing may be scheduled at any time prior to and including the final court date.

- [Risk Education/Treatment Compliance Form \(PDF\)](#)

### 34.03 DUI EVALUATION REPORTS

- [Illinois General Assembly's Administrative Code Database](#)

The Local Rules governing DUI evaluations are designed to ensure the Court has complete and accurate information relative to a defendant's risk to public safety and the existence and the extent of any alcohol/drug problems pursuant to Chapter V, Article 4 of the Unified Code of Corrections (730 ILCS 5/5-4-1). The information contained in the evaluation is the basis for decisions regarding sentencing DUI offenders.

(a) The Department of Probation and Court Services will conduct all DUI evaluations for offenders arrested in DuPage County on or after March 1, 2001, unless otherwise directed by the Court.

(b) All personnel of the Department of Probation and Court Services conducting DUI evaluations will meet the qualifications and certification requirements according to Sections 2060.309, .311 and .313 of the Illinois Administrative Code, and Administrative Office of the Illinois Courts (AOIC).

(c) The Department of Probation and Court Services will meet and maintain the licensing requirements as mandated by Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part 2060.

(d) A DUI evaluation designed to evaluate the offender's risk to public safety will be made available to the Court prior to disposition in the following cases:

(1) Prosecutions for violation of 625 ILCS 5/11-501(a) or a similar provision of local ordinance

(2) Prosecution for violations of 625 ILCS 5/11-503 or a similar provision for a local ordinance where the offender was originally arrested or charged with a violation of 625 ILCS 5/11-501(a) or a similar provision of a local ordinance.

(3) Prosecutions for any other offense where at the request of any other party or on the motion of the sentencing judge, it is determined that such information should be disclosed.

(e) The DUI evaluation will include a review of the offender's driving history (including a Court Purposes Abstract and supervision history from the Secretary of State), chemical test results (BAC and/or Forensic Lab results), objective test scores and summary, prior criminal history, social history interview, prior alcohol and drug related evaluation and treatment, other corroborative sources of information, and meet the criteria set forth in Section 2060.503 of the Illinois Administrative Code. Additional assessments may be required as determined by the Department of Probation and Court Services.

(f) All DUI evaluations will include the Alcohol/Drug Related Arrest Addendum and assign a specific DUI Risk Classification and recommend an initial intervention that includes a minimum number of hours of care as defined by Section 2060.503 of the Illinois Administrative Code.

- [Alcohol/Drug Related Arrest Addendum \(PDF\)](#)

(g) All DUI evaluations will consist of a minimum of one face-to-face individual interview and will be conducted at an office of the Department of Probation and Court Services, the DuPage County Jail or any other location as specified by Court order.

(h) Pursuant to the Illinois Supreme Court Language Access Policy, any offender with limited proficiency in the English language will be offered the opportunity to have a court-appointed interpreter present throughout the evaluation process, regardless of court order.

(i) Upon completion of the evaluation, the Department of Probation and Court Services will provide to offenders the Department's Court Authorized list of approved providers.

(j) The original completed DUI evaluation will be distributed to the circuit court of venue, and copies will be provided to the offender and the defense attorney after the DUI Evaluation fee is paid.

#### **34.04 DUI EVALUATION FEES**

Chapter 625 ILCS 5/11-501(a) requires that any person required to undergo a professional evaluation as indicated in 730 ILCS 5/5-4-1 shall bear the cost of the evaluation.

The Probation and Court Services Department of the 18th Judicial Circuit Court is authorized to assess a fee of \$250 for each evaluation conducted under this rule. The Department is authorized to charge an additional fee of \$50 each time an evaluation is rescheduled because the offender did not appear for the scheduled appointment, or the offender did not provide proper cancellation notice within 24 hours of the scheduled

appointment, or the offender did not provide verification of a crisis or emergency that prevented proper notice. The Department is authorized to collect the additional \$50 fee prior to scheduling another appointment for the offender. The Circuit Court Clerk for the 18th Judicial Circuit shall collect such fee and deposit these moneys in the General Fund of DuPage County.

The Department of Probation and Court Services shall develop guidelines to reduce fees for indigent persons. Unless a person falls within the Department's indigency guidelines or unless otherwise authorized by the Court, the person shall not receive a copy of the evaluation report until the evaluation fee has been paid to the Circuit Clerk's Office.

### **34.05 DUI TREATMENT SERVICES**

(a) All providers appearing on the Department's Court Authorized service provider list shall file a Provider Profile and Consent with the Department of Probation and Court Services. Providers shall notify the Department of Probation and Court Services in writing in the event of a change of employee's status, provider, subcontractor or support staff, added or terminated, within ten (10) days of such change.

(b) All staff providing direct service will meet graduate level academic standards and/or have specialized training related to cultural issues as acceptable to the court. These degrees will include but not be limited to licensed clinical social worker (LCSW), licensed social worker (LSW), licensed clinical professional counselor (LCPC), licensed professional counselor (LPC) and/or certified alcohol and drug counselor (CADC).

(c) There will be provisions made by the service provider to accept up to twenty percent (20%) indigent population as referrals in order to appropriately service the DUI offender population.

(d) Treatment providers on the Department's Court Authorized service provider list shall make reasonable efforts to collect fees from the offender prior to completion of services; however, if said fee is not collected by the completion of services, the providers shall not withhold verification of completion from the DuPage County Circuit Court or the Department of Probation and Court Services.

(e) All providers appearing on the Department's Court Authorized service provider list shall file a statement of intent to comply with this rule annually on or before December 31 for the ensuing year. The statement must express the Provider's intention to comply with the provisions of Title 77, Illinois Administrative Code, Chapter X, Subchapter (d), Part 2060 and the 18th Judicial Circuit Court Rules Article 34. The statements shall be filed with

the Department of Probation and Court Services. Failure to file a statement of compliance will result in the provider's removal from the Court Authorized service provider list.

(f) Failure to agree to abide by Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part 2060 and/or the 18th Judicial Circuit Court Rules shall form a basis to deny approved provider status or result in the termination of approved provider status.

(g) In the event a provider is denied approval or removed from the Department's Court Authorized service provider list, that provider may request, in writing, a reconsideration. A provider denied approval or removed from the approval list may petition for approval after a six (6) month period of time.

(h) The Court shall recognize SUPR Licensed Service Providers as being eligible to provide services to DUI offenders. If the DUI offender is sentenced to Probation or to reporting Court Supervision an agency from the Department's Court Authorized service provider list must be selected for DUI services.

(i) DHS Licensed Service Providers who are not on the Department's Court Authorized service provider list (e.g., out-of-state offenders), may provider services only upon the approval of the Court and entry of Court Order.

(j) The Service Provider shall give the Department of Probation and Court Services, 503 N. County Farm Road, Wheaton IL 60187, the designated supervising agency, written notice within five (5) calendar days of any change to the Level of care, or any further services necessary to reduce the offender's risk to public safety as defined by Section 2060.401 of the Illinois Administrative Code.

*Minimal Risk – Program Services:*

DUI Service Providers shall provide and conduct, pursuant to Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part 2060, and the Rules of the 18th Judicial Circuit Court, DuPage County, Illinois, a comprehensive driving under the influence Minimal Risk Education Course for those DUI offenders and other misdemeanants referred by the Court to the Department of Probation and Court Services, DuPage County, wherein the nature of the charge, the conduct of the offender or a factor to be considered in sentencing is alcohol or drug related.

According to Section 2060.503 of the Illinois Administrative Code, the Minimal Risk offender has:

- no prior convictions or court-ordered supervision for DUI, no prior statutory summary suspensions, and no prior reckless driving convictions reduced from DUI, **AND**
- a BAC of less than .15 as a result of the most current arrest for DUI, **AND**
- no other symptoms of Substance Use Disorder.

The Minimal Risk program requires the successful completion of a minimum of 10 hours of DUI risk education as defined in Section 2060.505 of the Illinois Administrative Code.

*Moderate Risk – Program Services:*

DUI Service Providers shall provide and conduct, pursuant to Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part 2060, and the Rules of the 18th Judicial Circuit Court, DuPage County, Illinois, a comprehensive driving under the influence Moderate Risk program including Early Intervention for those DUI offenders and other misdemeanants referred by the Court to the Department of Probation and Court Services, DuPage county, wherein the nature of the charge, the conduct of the offender or a factor to be considered in sentencing is alcohol or drug related.

According to Section 2060.503 of the Illinois Administrative Code, the Moderate Risk offender has:

- no prior convictions or court-ordered supervision for DUI, no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI, **AND**
- A BAC of .15 to .19 **OR** a refusal of chemical testing as a result of the most current DUI arrest, **AND/OR**
- at most, one symptom of a Substance Use Disorder.

The Moderate Risk program requires the successful completion of a minimum of 10 hours of DUI risk education as defined in Section 2060.505 of the Illinois Administrative Code; a minimum of 12 hours of early intervention as defined in Section 2060.401(a) of the Illinois Administrative Code provided over a minimum of four weeks with no more than three hours per day in any seven consecutive days; subsequent completion of any and all necessary treatment; and after discharge, active in ongoing participation in all activities specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in Section 2060.401 of the Illinois Administrative Code.

The Moderate Risk program shall be designed to address the client's specific needs based upon the nature and extent of his/her substance use; his/her physical, emotional and/or

social dysfunction arising from said substance use; the probability of his/her continuing such use and his/her potential for repetition of the sanctioned conduct, having due consideration for his/her strengths and weaknesses.

*Significant Risk – Program Services:*

DUI Service Providers shall provide and conduct, pursuant to Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part.2060, and the Rules of the 18th Judicial Circuit Court, DuPage County, Illinois, a comprehensive driving under the influence Significant Risk program, including counseling, individual or group, for those DUI offenders and other misdemeanant referred by the Court to the Department of Probation and Court Services, DuPage County, wherein the nature of the charge, the conduct of the DUI offender or a factor to be considered in sentencing is alcohol or drug related. According to Section 2060.503 of the Illinois Administrative Code, the Significant Risk offender has:

- one prior conviction or court-ordered supervision for DUI, or one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI, **AND/OR**
- a BAC of .20 or higher as a result of the most current arrest for DUI, **AND/OR**
- 2-3 symptoms of a Substance Use Disorder

The Significant Risk program requires the successful completion of a minimum of 10 hours of DUI risk education as defined in Section 2060.505 of the Illinois Administrative Code; a minimum of 20 hours of substance abuse treatment; and, upon completion of any and all necessary treatment, and after discharge, active on-going participation in all activities specific in the continuing care plan. This treatment shall be as specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in Section 2060.401 of the Illinois Administrative Code.

The above-prescribed treatment sessions shall be designed to address and treat the individual' specific needs based upon the nature and extent of his/her substance use disorder; his/her physical, emotional and/or social dysfunction arising from said substance use disorder; the probability of his/her continuing such use, and his/her repetition of the sanctioned conduct having due regard and consideration for his/her strengths and weaknesses.

*High Risk – Program Services:*

DUI Service Providers shall provide and conduct, pursuant to Title 77, Illinois Administrative Code, Chapter X, Subchapters (a-e), Part 2060, and the Rules of the 18th

Judicial Circuit Court, DuPage County, Illinois, a comprehensive driving under the influence High Risk program including counseling, individual or group, for those DUI offenders and other misdemeanants wherein the nature of the charge, the conduct of the offender or a factor to be considered in sentencing is alcohol or drug related.

According to Section 2060.503 of the Illinois Administrative Code, the High-Risk offender has:

- four or more symptoms of a Substance Use Disorder (regardless of driving record), **AND/OR**
- within the ten-year period prior to the date of the most current (3<sup>rd</sup> or subsequent) DUI arrest, any combination of two prior convictions or court-ordered supervisions for DUI or prior statutory summary suspensions or prior reckless driving convictions reduced from DUI, resulting from separate incidents.

The High-Risk program requires the successful completion of a minimum of 75 hours substance abuse treatment; and upon completion of any and all necessary treatment, and, after discharge, active on-going participation in all activities specified in the continuing care plan, subsequent step-down in Level of Care as deemed appropriate by the treatment provider. This treatment shall be as specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in Section 2060.401 of the Illinois Administrative Code.

The above-prescribed treatment sessions shall be designed to address and treat that specific offender's needs based upon the nature and extent of his/her substance use disorder; his/her physical, emotional and/or social dysfunction arising from said substance use disorder; the probability of his/her continuing such use, and his/her potential for repetition of the sanctioned conduct, having due consideration for his/her strengths and weaknesses.

#### **34.06 DUI ELIGIBILITY FOR FELONY ENHANCEMENT FOR MUNICIPAL PROSECUTIONS**

Municipal prosecutors shall be required to notify the State's Attorney's Office of all charges of Driving Under the Influence that are potentially eligible for felony enhancement prior to the first court date. If a defendant's driving record is not available prior to the first court date, the municipal prosecutor shall obtain the driving record and notify the State's Attorney's Office as soon as possible upon receipt. (See 65 ILCS 5/1-2-1.2 and 625 ILCS 5/11-208.5)

**34.07 ARRAIGNMENT**

(a) The arraignment dates for DUI cases shall be set by the arresting law enforcement agency. The arraignment date shall not be less than twenty-six (26) days nor more than forty-two (42) days from the date of arrest, where practical. The police officer setting the arraignment date shall take into consideration the following information:

- (1) The arresting officer's regular traffic court date;
- (2) Any scheduled vacation of the arresting officer;
- (3) Any scheduled training of the arresting officer; and
- (4) Any Court holiday.

(b) If any return date would fall on an official Court holiday, the police officer shall set the next working court date for the arraignment.

(c) The arresting officer shall be available in the courtroom on the date set for arraignment. Failure of the officer to appear pursuant to Rule 34.07 shall be considered by the Court to be the same as the failure of the complaining witness to appear in criminal proceeding and may be cause for dismissal.