

## NOTICE OF COURT RULES

THE COURT PUBLISHES AND GIVES NOTICE OF THE FOLLOWING COURT RULES:

Rule 2.4.2 – Dayton Regional Mental Health Court Docket

Rule 3.8 – Execution (Levy) on Property

COMMENTS ON THE COURT RULES MAY BE SENT IN WRITING TO:

DAYTON MUNICIPAL COURT  
COURT ADMINISTRATOR ANN MARIE MURRAY  
301 WEST THIRD STREET, ROOM 365  
DAYTON, OHIO 45402

The Dayton Municipal Court (“Court”) finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 2.4.2, Dayton Regional Mental Health Court Docket, to update the Rule and add that defendants shall be ineligible for the ACCESS II Program if they are charged with sex offenses requiring registration requirements or they possessed a gun during their offenses. The revised language appears in bold type below:

#### Rule 2.4.2 – Dayton Regional Mental Health Court Docket

A. Establishment of the Dayton Regional Mental Health Court Docket.

The Dayton Municipal Court established a mental health docket, “the ACCESS II Mental Health Docket”, in 2003. It is the goal of the ACCESS II Mental Health Program to reduce recidivism among defendants with mental and behavioral health issues who face criminal charges in the justice system; to reduce periods of incarceration by defendants with mental and behavioral health issues; and to provide meaningful psychological treatment intervention to these defendants so they may lead crime-free, stable, and healthy lives free from hospitalization.

**The ACCESS II Docket is now called “The Dayton Regional Mental Health Court Docket” to reflect access for all Montgomery County residents charged with criminal misdemeanors in municipal courts within Montgomery County, Ohio.**

B. Specialized Docket.

**The Court finds that this Mental Health Court Docket is governed by Sup.R.36.20 and the Specialized Docket Standards. A Dayton Municipal Court Judge shall be selected to hear the cases on the “ACCESS II” Dayton Regional Mental Health Court Docket and shall serve for the period provided by the Rules of Superintendence and the Specialized Docket Standards.**

C. Placement on the Dayton Regional Mental Health Court Docket.

To qualify for the Dayton Regional Mental Health Court Docket, a criminal defendant must meet the following legal criteria: be a resident of Montgomery County; be charged with a criminal misdemeanor charge pending in a municipal court within Montgomery County, have a persistent and severe mental illness which would benefit from court monitored treatment; be referred by the judge assigned to the criminal case; and desire to voluntarily enter the ACCESS II Program. Application for placement in the ACCESS II Program shall be subject to initial assessment by the ACCESS II Roundtable (treatment team) based upon the legal and clinical criteria for entering the ACCESS II Program and the approval of the Docket Judge.

Persons charged with traffic offenses **or sex offenses with registration requirements are ineligible for the ACCESS II Program. Defendants will also be ineligible if they possessed a gun during their offense(s).** Any legal issues regarding competency to stand trial or insanity defenses must be resolved before a defendant can enter the Dayton Regional Mental Health Court Docket. Upon referral to the ACCESS II Program, the defendant receives a diagnostic evaluation to confirm that he/she meets clinical criteria. Clinical criteria includes: a diagnosis that is consistent with a severe and persistent mental illness; sufficient stability to understand and comply with program requirements; and the criminal defendant must not pose an unacceptable risk to program staff, family or community. The ACCESS II Roundtable

will determine if the defendant qualifies for the ACCESS II Program, subject to the final approval of the Docket Judge.

D. Case Assignment.

Upon acceptance into ACCESS II, the defendant enters a plea of guilty and the Dayton Regional Mental Health Court Docket Judge imposes supervised community control and a jail sentence suspended pending successful completion of the ACCESS II Program. After entering the ACCESS II Program, the case is transferred to the Dayton Regional Mental Health Court Docket. If the criminal defendant does not enter the ACCESS II Program, then the case is returned to the original referring court to proceed on that court's docket. The judge presiding over the Dayton Regional Mental Health Court Docket has the responsibility for case management of all cases transferred to the Docket. In the event the criminal defendant is unsuccessfully terminated from the ACCESS II Program, all or part of the defendant's criminal sentence may be imposed.

E. Docket Case Management.

Criminal defendants accepted into ACCESS II will participate in counseling for mental health (individual and/or group sessions) and for substance abuse, if appropriate. The treatment plan may also include obtaining stable housing and reliable transportation, completing high school or obtaining a GED, participating in vocational assessment and entering appropriate training, attempting to obtain and/or maintain employment (either part or full time). The Dayton Regional Mental Health Court Program Description, Participant Handbook, and Participation Agreement (as amended from time to time) are incorporated by reference.

F. Termination from ACCESS II.

Upon successful completion of the ACCESS II Program, the criminal defendant is graduated and his or her charges may be dismissed. If the criminal defendant violates the terms of ACCESS II, a Notice of Violation is filed and a Hearing is scheduled. In the event the Court finds that the terms of the ACCESS II Program have been violated and the defendant should no longer continue, the defendant is terminated from the ACCESS II Program and all or part of the criminal sentence is imposed. A criminal defendant may be neutrally **terminated** if he or she is no longer capable of completing the ACCESS II Program.

The Dayton Municipal Court finds an immediate need to change the title of DMCR 3.8, Execution, Sale, and Confirmation, to "Execution (Levy) on Property," and to generally update DMCR 3.8. Persons requesting a levy on an abandoned manufactured or mobile home or recreational vehicle must use the Court's form "Motion for Writ of Execution on Abandoned Manufactured/Mobile Home or RV." The Court has determined that the fee for the Motion for Writ of Execution is \$75.

In addition, the Court finds that the deposit for the costs associated with the sale of personal property, including abandoned manufactured homes, needs to be increased from \$600.00 to \$800.00. The Court finds that there needs to be a \$16.00 deposit for the costs associated with the transfer of title to a manufactured or mobile home. The Deposit for the Sale or Transfer of Title shall be made when paying the \$75 Motion for Writ of Execution fee.

Revised DMCR 3.8 below shall be effective on the filing date of this Order:

### Rule 3.8 – Execution (Levy) on Property

#### A. Execution (Levy).

A party must file a Motion requesting a Writ of Execution on personal property. A party requesting a Writ of Execution on an abandoned manufactured or mobile home or recreational vehicle shall use the Court's form "Motion For Writ of Execution on Abandoned Manufactured/Mobile Home or RV." This form is available through the Clerk of Court Civil Division or the Clerk's website.

1. Motion for Writ of Execution Fee. The fee for the Motion is \$75.

#### B. Deposit on Personal Property or Abandoned Manufactured Home.

At the time of requesting a writ be issued on an execution against personal property or an abandoned manufactured or mobile home or recreational vehicle, an amount sufficient to pay the estimated cost of moving, towing, storing, appraising, advertising, transferring the title, or selling the personal property shall be deposited with the Clerk to secure such expenses. The deposit may increase depending on the actual costs associated with the execution.

1. Sale of Personal Property or Abandoned Manufactured/Mobile Home or RV.

- (a) Deposit for Costs Associated with the Sale of Property - \$800.

If A Writ of Execution is requested in connection with the sale of a vehicle, abandoned manufactured/mobile home or recreational vehicle, or other personal property, the amount of the deposit shall not be less than eight hundred dollars (\$800). The \$800 deposit may not cover all the actual expenditures incurred; therefore, the actual amount paid may increase depending on the actual cost of appraisal, advertising, and other services associated with the execution.

- (b) Notice and Procedure for the Sale of Personal Property.

The party requesting the sale of personal property shall give the notice and follow the procedure required by Chapter 2329.

- (c) Notice and Procedure for Sale of Abandoned Manufactured Home or RV.

The party requesting the sale of an abandoned manufactured or mobile home or recreational vehicle shall give the notice and follow the procedures required by R.C. 1923.14.

(d) Confirmation of Sale.

After the Sale, an Entry of Confirmation and Distribution of Sale shall be filed.

2. Transfer of Title to Abandoned Manufactured/Mobile Home or RV.

(a) Deposit for Transfer of Title - \$16.

At the time of requesting a Writ of Execution to transfer the title to an abandoned manufactured or mobile home or RV, a deposit of not less than sixteen dollars (\$16) shall be paid.

(b) Procedure for Transfer of Title.

The party requesting the transfer of title of an abandoned manufactured or mobile home or recreational vehicle shall follow the procedures required by R.C. 1923.13 and R.C. 1923.14.