

Transfer of Case to HOPE Court

If I am accepted into HOPE Court, the HOPE Court Judge will thereafter handle all aspects of my case, even though I may have pled guilty or been convicted before a different judge.

Assessments and HIPAA Qualifying Releases

I will participate in an assessment as directed by the Lincoln County HOPE Court probation officer, which assessment shall be scheduled by the probation officer and take place at the offices of the Lincoln County Health and Human Services [hereinafter LCHHS];

After assessment, I agree to comply with the directions given by the evaluator, which includes my referral to any counseling provider or treatment outlet which is participating in the Lincoln County HOPE Court Program.

Release of Information

HIPAA-Qualified Release to be Signed. I understand I will be presented with a release form by my prospective treatment provider. I have been informed and understand that I must sign this release document so that all treatment information collected by treatment provider(s) can be released to the Lincoln County Circuit Court HOPE Court Judge, my probation officer, the Lincoln County District Attorney and my attorney.

Participation Requirements

I must enroll in the treatment recommended and/or scheduled by my probation officer and/or the treatment provider. I must diligently pursue the treatment and successfully complete the treatment as scheduled.

I must enroll in any alcohol/drug, psychological, educational, and/or behavioral treatment or

counseling recommended by my treatment provider and/or my probation officer when that person reasonably determines that such treatment or counseling would be beneficial to me.

I must comply strictly with the conditions of my probation or diversion agreement [as the case may be]. In particular [but without limitation], one of the key goals of HOPE Court is to achieve full restitution to the victims of any crime[s] of conviction in this case. In this regard, I understand that anything short of paying, as ordered, money through the Court as a condition of probation is not, and will not be, acceptable. But for being accepted into HOPE Court, I understand that I would be going to prison as a result of one or more convictions in this case. To avoid having to go to prison in the future as a result of the conviction[s], I must pay any restitution as ordered by the Court.

Unless I am on a statutory felony diversion, my participation will be scheduled to last for the term of my probation. Although the HOPE Court Judge will have the authority to shorten or lengthen the term of my probation [depending on my progress and compliance with all terms of my participation and probation], I will be required to participate in HOPE Court for a minimum of one year and/or until any restitution obligation is paid in full, whichever is longer [up to the maximum period of probation allowed by law for the offense].

Appearances before HOPE Court Judge

I understand that I will be required to appear before the HOPE Court Judge on pre-determined dates and times. At least to begin with, I will be required to attend HOPE Court once per week. The frequency of my required appearances will depend on the HOPE Court Judge's assessment of my progress, or lack thereof, in HOPE Court.

I understand that my failure to appear at any scheduled hearing may result in my being arrested.

Effect of Successful Completion

I understand that if I successfully complete my participation in HOPE Court and comply with the conditions of my probation for the specified duration of probation, I will earn the dismissal of the charge[s] to which I have pled guilty in this case if I am on a conditional discharge or a diversion

agreement. If I am on probation, the HOPE Court Judge may terminate the probation early, but is not required to do so. If I am allowed to enroll in HOPE Court following a conviction, successful completion of HOPE Court will not result in the conviction being vacated or set aside.

If granted a downward departure from a prison term by any lawful means, successful completion of HOPE Court will mean that I will not have to be sent to prison as a result of this case.

If I am granted a downward departure from a prison term but later were to be found in violation of the conditions of HOPE Court and/or my probation, I will subject to a revocation of probation and the imposition of the prison term authorized by law for the crime[s] of conviction.

No Use of Intoxicants - Notice to Counselor & Probation Officer

I will not use or possess any controlled or mind-altering substance, including but not limited to alcohol, and that I will immediately notify my treatment provider[s] and probation officer if I come into possession of any drug which by State or Federal Law requires a prescription. In addition, to help me to remain abstinent from intoxicants, I am not permitted to enter any bar or tavern at any time.

I must furnish urine and/or other bodily substances as requested by my probation officer for the purpose of determining whether I have used or consumed intoxicants. I understand these tests will occur frequently, that they will be random, and that the collection of the samples will be observed. I agree that I will be required to pay for the costs of urinalysis if the sample comes back as positive or dilute.

Presence of My Attorney During HOPE Court

I have a right to have my attorney present during all HOPE Court appearances [i.e. in the courtroom with the judge present].

I understand that the attorney who has represented me on this case initially will be replaced by an attorney who is permanently assigned to represent individuals who have been accepted into HOPE

Court.

Failure by Participant to Comply With HOPE Court Program Requirements

Authority of Judge to Order HOPE Court Participant to Appear

I agree that if I either fail to comply with the terms of my probation, or to fulfill the treatment program requirements, or if I violate any agreement or condition set forth in this document, I will be subject to sanctions by my probation officer and/or subject to arrest on a bench warrant due to the District Attorney's filing of a motion to revoke probation. The results of this type of hearing are set forth below.

Possible Outcomes for Noncompliance

- (1) Modification of one or more terms of the treatment program, including, but not limited to, more intensive participation in rehabilitative programs, a requirement for longer hours of employment, and more intensive contact with my probation officer;
- (2) The imposition of a structured sanction by my probation officer, including, but not limited to, jail, work crew and/or community service;
- (3) The imposition of penalties by the HOPE Court Judge, including, but not limited to:
 - (a) Jail time;
 - (b) Community Service Work;
 - (c) Work Crew;
 - (d) Other Sanctions upon which my continued participation in the HOPE Court Program will be conditioned; and/or
 - (e) Any other sanction authorized by Oregon law for a probation violation [including a prison term].

Even when penalties in (a) through (e) are imposed, I may still be allowed to continue in the HOPE Court.

- (4) Termination from any treatment program previously ordered, which would result in a termination of a conditional discharge or a diversion agreement, which would thereby result in a judgment of conviction for the offense[s] to which I have pled guilty in this case. The judgment of conviction may contain any lawful penalties, including a prison term.

Criteria for Involuntary Termination of HOPE Court Participation

Failure to comply strictly with the treatment requirements set by the Defendant's treatment provider[s] and/or with the requirements and/or agreements set forth in this document.

Noncompliance with any term of probation.

The filing of a new criminal charge against me would be grounds for the HOPE Court Judge to terminate me from the HOPE Court Program. Conviction of a new crime is not a prerequisite for termination. Instead, the burden of proof regarding the new allegation is a preponderance of the evidence.

I understand that, within 3 days of any such arrest, I must report the fact of that arrest or citation to the following person or agencies *in writing*:

- (a) The HOPE Court Judge;
- (b) The HOPE Court Probation Officer;
- (c) My Treatment Provider[s] or Counselor[s]; and
- (d) My Attorney.

Enrollment in The Oregon Health Plan:

I understand it is an obligation of my participation in the Lincoln County HOPE Court Program to immediately and continuously attempt to enroll in and Hopefully succeed in obtaining participant status in The Oregon Health Plan. I agree that I must use my best efforts when working toward qualification and acceptance in The Oregon Health Plan.

If I have available to me another health insurance policy which might provide payment for the costs of my treatment, I agree to immediately and diligently seek such payment.

If I am billed by my treatment agency for treatment services, I will immediately notify my Attorney as well as the HOPE Court Judge of any such occurrence or billing.

By my signature below, I acknowledge to this Court that I understand that which I have read, or had read to me, of the foregoing Petition, Waivers, Stipulations and Agreements, as well as those rights which I must waive or give up.

By my signature below I advise this court that I have read, or had read to me, this Petition. I knowingly and voluntarily give up the rights recited above. My decision to enter into the Lincoln County HOPE Court Program is given to this Court after deliberate consideration and thought. It is my belief this program is one designed to help me deal with any addiction issues, help me develop the tools to facilitate a productive, responsible and law-abiding lifestyle.

Dated this _____ day of _____, 20__.

Defendant

ORDER

IT IS THE ORDER OF THIS COURT THAT DEFENDANT'S PETITION WHEREIN THE DEFENDANT ASKS THIS COURT TO AUTHORIZE DEFENDANT'S ENTRY INTO THE LINCOLN COUNTY HOPE COURT PROGRAM WILL BE AND IS HEREBY:

DENIED

GRANTED.

IT IS THE FURTHER ORDER OF THIS COURT THAT THE DEFENDANT APPEAR IN THE LINCOLN COUNTY CIRCUIT COURT, COURTROOM _____, ON THE _____ DAY OF _____, 2011, AT WHICH TIME DEFENDANT'S PROBATIONARY SENTENCING OR ENTRY OF DIVERSION WILL OCCUR.

DATED THIS _____ DAY OF _____, 20__.

THOMAS O. BRANFORD
CIRCUIT COURT JUDGE
HOPE COURT JUDGE

CERTIFICATION OF COUNSEL

BY MY SIGNATURE HEREUNDER I CERTIFY TO THIS COURT I AM DEFENDANT'S ATTORNEY OF RECORD IN THIS MATTER. I FURTHER CERTIFY TO THIS COURT THAT I HAVE DISCUSSED WITH MY CLIENT THE FACTS OF THIS LITIGATION, AS WELL AS THIS PETITION, WAIVER AND AGREEMENT, AND HAVE ADVISED THE DEFENDANT OF HIS/HER RIGHTS AS GUARANTEED BY OREGON LAW AND THE OREGON AND FEDERAL CONSTITUTIONS. IT IS MY OPINION MY CLIENT'S ELECTION TO PARTICIPATE IN THE LINCOLN COUNTY HOPE COURT PROGRAM TO BE WELL-FOUNDED IN LAW AND IN KEEPING WITH THE DEFENDANT'S BEST INTERESTS.

DATED THIS _____ DAY OF _____, 20__.

ATTORNEY FOR DEFENDANT

CERTIFICATION OF DISTRICT ATTORNEY

BY MY SIGNATURE HEREUNDER I CERTIFY I AM COUNSEL FOR THE STATE OF OREGON, THAT I HAVE REVIEWED THE FACTS IN THIS CASE AND STATE FOR THE RECORD AND THIS COURT THAT THE STATE OF OREGON DOES NOT OPPOSE DEFENDANT'S PARTICIPATION IN THE LINCOLN COUNTY HOPE COURT PROGRAM.

DATED THIS _____ DAY OF _____, 20__.

DEPUTY DISTRICT ATTORNEY

[3/22/13]