

Treatment Court Termination and Sentencing Disposition – IRTC 17 and 18

Bench Card

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PURPOSE

To outline the process of termination and sentencing/disposition of a participant from an adult treatment court consistent with the requirements provided in the Idaho Rules for Treatment Courts (I.R.T.C.).

TERMINATION – RULE 17

WHEN

After consultation with the Treatment Court Team, the Treatment Court Judge may find a participant is no longer amenable to supervision with the treatment court.¹

HOW TO INITIATE

Proposal to Terminate: The Treatment Court Judge shall advise the participant it has been proposed that the participant may be terminated from the treatment court.²

Recommended Form (Odyssey): Notice of Proposed Termination from Treatment Court.

Motion to Terminate: A motion is filed by the State to terminate the participant from the treatment court.³ The Treatment Court Team may assist the State in completing the Motion for Termination during a staffing session. The prosecuting attorney will file the motion with the Court.

Recommended Form (Sample Form): [Motion and Affidavit for Termination from Treatment Court](#)

CUSTODY

Pending a termination hearing, a participant may be ordered into custody, with or without bail, at the discretion of the Treatment Court Judge. A parolee may be subject to any hold imposed by the parole commission.⁴

NOTICE PRIOR TO TERMINATION HEARING

After the filing of the motion the participant shall be advised of:

- (1) The alleged grounds for termination;
 - The alleged grounds for termination should be found in the State's [Motion and Affidavit for Termination from Treatment Court](#);
- (2) The date and time of the termination hearing;
 - A termination hearing shall be held within twenty-one (21) days of the filing of a motion to terminate.⁵ The time limit may be extended for good cause.⁶
- (3) The terms of bail imposed, pending the termination hearing.⁷

NOTIFICATION OF RIGHTS

Prior to the Termination hearing the Treatment Court Judge will notify the participant of the rights outlined in I.R.T.C. 17(g).

Recommended Form (Odyssey): Notification of Rights (Termination from Treatment Court).

TERMINATION HEARING

Presiding Judge: The Treatment Court Judge may preside over the termination proceedings.⁸ If the Treatment Court Judge elects not to preside over the termination hearing, the Treatment Court Judge shall forward the matter for reassignment.⁹

Standard of Proof: The State must prove by a preponderance of the evidence that the participant willfully violated one or more conditions of participation in the treatment court.¹⁰

Admissible Evidence: The rules of evidence are relaxed and apply at the termination hearing in the same manner as a probation violation hearing.¹¹ The judge presiding over the termination hearing may admit and consider any evidence that has been disclosed to the participant prior to the termination hearing, that is deemed reliable, and that would assist the court in making its determination.¹²

Making the Record: The hearing to terminate a participant from a treatment court shall be held in the same manner as a probation violation hearing and shall be made part of the record. The hearing may be conducted in a regularly scheduled treatment court hearing.

The participant may waive the right to a treatment court termination hearing and consent to proceed directly to sentencing or disposition.¹³ Such waiver shall be on the record, either orally or in writing.¹⁴

Findings: If a participant waives their right to a termination hearing, enters an admission, or is found to have willfully violated a condition of the treatment court, the judge presiding over the termination hearing shall enter the Order of Termination from Treatment Court and Stopping Participant Fees.¹⁵

Recommended Form (Odyssey): Order of Termination from Treatment Court and Stopping Participant Fees.

If a participant is not found to have willfully violated a condition of the treatment court, the judge presiding over the termination hearing shall enter an order setting forth specific findings and continuing the participant's prior condition(s) of treatment court supervision.¹⁶

SENTENCING/DISPOSITION – RULE 18

Presiding Judge

The judge presiding over the termination proceedings may continue to preside over the sentencing/disposition hearing with two exceptions.

- (1) If the presiding judge no longer has sufficient authority to preside over the sentencing/disposition, then that judge shall recuse and refer the matter for reassignment.¹⁷
- (2) If the participant was admitted into a treatment court by means of a transfer of supervision, the case shall be set before the original sentencing judge or referred for reassignment.¹⁸

Scheduling

Upon a participant's termination from a treatment court, the court must set a time for imposition of sentence/disposition.¹⁹ Following the entry of the Order of Termination from Treatment Court and Stopping Participant Fees, the presiding judge should review the matter and determine whether reassignment of the case is necessary. If reassignment is necessary, the case shall be reassigned

by the Administrative District Judge, or such judge's designee, to another appropriate judge.²⁰ The court clerk for the judge assigned to preside over the sentencing/disposition hearing shall set the matter within a reasonable time and shall provide notice to all interested parties.

Separate Probation Violation Not Required

If an order of termination has already been entered in the record, and so long as the State is not alleging any violations in addition to the participant's failure to comply with the condition of the treatment court, a separate probation violation is not required to be filed and the court may proceed directly to sentencing/disposition, subject to the treatment court judge's authority to do so.²¹

Making The Record

The sentencing/disposition hearing will be held in the manner outlined in applicable statutes and rules.²²

Possible Reentry to a Treatment Court

Following a participant's termination from a treatment court, the sentencing judge may not order a participant back into a treatment court, unless the participant has reapplied for participation in a treatment court, and the sentencing court has been provided the Notice of Eligibility for Treatment Court accepting the participant into the treatment court.²³

¹ I.R.T.C. 17(a).

² *Id.*

³ I.R.T.C. 17(f). a

⁴ I.R.T.C. 17(d) and (f).

⁵ I.R.T.C. 17(b) and (f).

⁶ *Id.*

⁷ I.R.T.C. 17(f).

⁸ I.R.T.C. 17(c).

⁹ *Id.*

¹⁰ I.R.T.C. 17(G)(7)(A).

¹¹ I.R.E. 101(e)(3). *See also State v. Rogers*, 144 Idaho 738, 743 (2007).

¹² *See Rogers*, 144 Idaho at 743.

¹³ I.R.T.C. 17(h).

¹⁴ *Id.*

¹⁵ I.R.T.C. 17(i).

¹⁶ I.R.T.C. 17(k).

¹⁷ I.R.T.C. 18(b) and (c). *See also* I.C.R. 33.

¹⁸ I.R.T.C. 18(d).

¹⁹ I.R.T.C. 17. *See also* I.C.R. 33.

²⁰ I.R.T.C. 18(a), (c), and (d).

²¹ I.R.T.C. 18(d).

²² I.R.T.C. 18(a). *See also* Title 19, Chapter 25, Idaho Code; I.C.R. 33; I.M.C.R. 9.

²³ I.R.T.C. 18(f). The "Notice of Eligibility for Treatment Court" is a court approved form found in Odyssey.