

**IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO**

STATE OF OHIO,	*	CASE NO.
Plaintiff,	*	
vs.	*	FELONY NON SUPPORT (FNS)
	*	DOCKET PARTICIPATION
	*	AGREEMENT AND WAIVER OF
	*	RIGHTS
Defendant.		

The undersigned Defendant (hereinafter referred to as “Defendant,” “Offender,” or “Participant”) requests that he/she be sentenced to the Butler County Court of Common Pleas Felony Non Support (FNS) Docket as part of a community control sanction, which could be imposed herein. The execution of this agreement does not obligate the Court to sentence the Defendant to community control. Defendant acknowledges that they consulted with their attorney regarding the legal ramifications of entering into FNS and reviewed both the *Participant Handbook* and this document with their attorney.

An Offender may be sentenced into FNS through one (1) or more of the following four (4) methods:

- Plea and sentencing;
- Intervention in Lieu of Conviction;
- Probation Violation; or
- Judicial Release.

Pursuant to Local Rule 7.03, once Defendant has been ordered to complete FNS, their case shall be transferred to the FNS Judge. Any, and all further Court proceedings with respect to that, shall be heard by the FNS Judge. Once entered into FNS, Defendant shall become a Participant.

Participant understands that by entering into FNS, they are waiving certain constitutionally-guaranteed rights which they might otherwise be entitled. Those rights include, but are not limited to:

- Waiver of the right to consult with and be represented by an attorney at status review hearings. However, any Participant facing a probation violation hearing or a graduated sanction will be represented by counsel at staffing and status review hearing;
- Waiver of any objection to the Judge receiving communication regarding Participant’s child support payments, treatment progress, and/or rule violations without Participant or his/her attorney being present;
- Waiver of the right to remain silent and to not incriminate themselves at status review hearings with regards to FNS program violations;

- Waiver of the right to freely associate with other persons, including Participant's spouse or significant other, who, in the sole discretion of the Court, may interfere with or impede the progress of Participant; and
- Waiver of the right to be searched without probable cause and/or a warrant in regard to FNS staff being able to conduct searches of Participant's person, residence, and/or property (including Participant's cell phone).

**Terms and conditions of FNS:**

1. Participant can expect to be in FNS for a minimum of twelve (12) months. However, this does NOT guarantee they will complete the entire Program at the end of that twelve (12) month period. Participant shall receive a case plan based on their individual needs. All provided services shall incorporate evidence-based strategies. Participant shall have prompt access to a continuum of approved treatment and rehabilitation services upon admission into FNS. The FNS Docket maintains a current case plan and a record of activities for each participant. Case plans continue to develop throughout FNS to reflect changing needs based on Program progress and child support payments. Appropriately licensed and trained individuals will deliver services according to the standards of their profession. The FNS case plans take into consideration services that are trauma informed, gender-responsive, culturally appropriate, and effectively address co-occurring disorders. All provided services are appropriate and clinically necessary to the degree that available resources allow.

- a. **Phases**

Phases are the steps in which a participant's performance and progress through FNS are monitored. These phases are used as guidelines that can be modified to meet a participant's specific needs. FNS incorporates four (4) phases. Participants are also required to frequently report to the FNS Judge and other treatment team members for compliance monitoring, assistance with case plans, and random alcohol and drug testing.

The following are the minimum attendance requirements for each phase:

Phase I: The participant shall appear before the FNS Judge weekly.

Phase II: The participant shall appear before the FNS Judge every two (2) weeks.

Phase III: The participant shall appear before the FNS Judge every four (4) weeks.

Phase IV: The participant shall appear before the FNS Judge every six (6) weeks.

General criteria for phase advancement may include a participant's honesty, attendance/participation/progress in treatment, sobriety, compliance with Court orders, payment of child support and Court fees, and the treatment team recommendations. Phase advancement is not solely based on pre-set timelines. Time between status review hearings may be increased or decreased based upon compliance with employment, child support obligation, treatment protocols, Program rules, and overall observed progress.

## **Phase I - ORIENTATION AND ENGAGEMENT**

Phase I is the initial phase of the FNS Docket, where the participant will become familiarized with how the program functions, the requirements and expectations of the program and their own individualized treatment plan. This phase is expected to last approximately thirty (30) days. During this phase, the participant has the most contact with the Court by attending scheduled status review hearings weekly. The participant will be required to submit to frequent, random, observed alcohol and drug testing at a minimum of two (2) times per week. The participant will be scheduled for appointments with the appropriate community providers based on the needs identified during the clinical assessment performed upon referral to the program. The participant will be expected to work on obtaining sobriety, attending all scheduled appointments, attending all court appearances, as well as building relationships with staff to establish a foundation for progress.

Phase I requirements include, but are not limited to:

- Attending weekly status review hearings;
- Enrolling in, and participating in all recommended treatment and programming. This may include, but is not limited to, the following: substance abuse and/or mental health treatment; employment and/or educational assistance programming; case management services, and/or housing assistance;
- Attending meetings with the probation officer as scheduled;
- Submitting to random alcohol and drug testing at a minimum of two (2) times per week;
- Taking prescription medications as directed;
- Obtaining all necessary documents (valid ID, birth certificate, social security card, etc.)
- Abiding by the individualized FNS case and treatment plans, the FNS Participation Agreement, and rules/conditions of community control;
- Committing no new criminal offenses; and
- Having a minimum of seven (7) consecutive days of sobriety immediately prior to moving to the next phase.

## **Phase II – STABILIZATION**

Phase II is designed to assist the participant in achieving sobriety, structure and stability. This phase is expected to last approximately sixty (60) to ninety (90) days. During this phase, the participant shall attend scheduled status review hearings every two (2) weeks. During this phase the participant will be required to submit to frequent, random, observed alcohol and drug testing at a minimum of two (2) times per week. The FNS treatment team shall continue to monitor each participant to determine if additional services are needed. These services may include, but are not limited to the following: substance use and/or mental health treatment; employment and/or educational assistance programming; case management services; parenting programming and/or housing assistance. The focus of this phase shall be on achieving sobriety; stabilization of mental health

symptoms; preparing for obtaining full-time, legitimate employment and payment of child support and other financial obligations.

Phase II requirements include, but are not limited to:

- Attending status review hearings at a minimum of every two (2) weeks;
- Continued attendance and participation in treatment and programming as recommended. These may include, but are not limited to, the following: substance abuse and/or mental health treatment; employment and/or educational assistance programming; case management services; life coaching services, parenting programming and/or housing assistance.
- Attending meetings with the probation officer as scheduled;
- Submitting to random alcohol and drug testing at a minimum of two (2) times per week;
- Taking prescription medications as directed;
- Engaging with employment readiness services;
- Establishing a sober support network as recommended by treatment providers;
- Engaging in any ancillary services as needed to foster a pro-social lifestyle (parenting class, anger management class, theft class, etc.);
- Establishing a financial plan/budget;
- Abiding by the individualized FNS case and treatment plans, the FNS Participation Agreement, and rules/conditions of community control;
- Committing no new criminal offenses; and
- Having a minimum of thirty (30) consecutive days of sobriety immediately prior to moving to the next phase.

### **Phase III – REINTEGRATION**

Phase III is designed to assist the participant in maintaining the sobriety, structure and stability gained through the previous phases and preparing them for employment and meeting financial obligations. This phase is expected to last approximately twelve (12) to sixteen (16) weeks. During this phase, the participant shall attend scheduled status review hearings every four (4) weeks. During this phase the participant will be required to submit to frequent, random, observed alcohol and drug testing at a minimum of one (1) time per week.

Phase III requirements include, but are not limited to:

- Attending status review hearings at a minimum of every four (4) weeks;
- Continued attendance and participation in treatment and programming as recommended;
- Engaging in a sober support network;
- Attending meetings with the probation officer as scheduled;
- Submitting to random alcohol and drug testing at a minimum of one (1) time per week;
- Taking prescription medications as directed;
- Obtaining full-time, legitimate, verifiable employment;
- Maintaining financial plan/budget;
- Begin making payments towards child support as ordered;

- Abiding by the individualized FNS case and treatment plans, the FNS Participation Agreement, and rules/conditions of community control;
- Committing no new criminal offenses; and
- Having a minimum of forty-five (45) consecutive days of sobriety immediately prior to moving to the next phase.

#### **Phase IV – MAINTENANCE**

Phase IV is designed to monitor the participant to ensure they are able to maintain the lifestyle achieved in prior phases and prepare for graduation from the FNS Docket. This phase is expected to last approximately twenty-four (24) weeks.

Phase IV requirements include, but are not limited to:

- Attending status review hearings at a minimum of every six (6) weeks;
- Continued compliance with all treatment plans;
- Attending meetings with the probation officer as scheduled;
- Submitting to random alcohol and drug testing at a minimum of one (1) time per week;
- Maintaining steady, full-time, legitimate, verifiable employment;
- Making consistent payments towards child support and other financial obligations as ordered;
- Continued engagement in a sober support network’
- Abiding by the individualized FNS case and treatment plans, the FNS Participation Agreement and rules/conditions of community control; and
- Having a minimum of ninety (90) consecutive days of sobriety immediately prior to graduating.

#### **b. Residential Treatment**

Participant may be recommended for residential treatment at the time during the FNS Docket. In this event, the FNS Docket will work closely with the treatment agency to obtain written reports on the participant’s progress and compliance, should the participant be unable to appear for scheduled Status Review Hearings. Once the participant has completed residential treatment and/or granted permission to leave the facility for court appearances, they are expected to appear before the Judge for scheduled Status Review Hearings.

The residential treatment facilities used by FNS are Sojourner Recovery Services for Men, Sojourner Recovery Services for Women, Modern Psychiatry and Wellness’ Genesis Program, Clean Slate Sober Living and Talbert House Halfway House Programs (Serenity Hall, Turtle Creek, Pathways). If deemed necessary, Participant may be required to complete treatment through one (1) of three (3) Community Based Correctional Facilities: the River City Correctional Center, the MonDay Program, or the Community Correctional Center (CCC). Participant shall be given jail time credit for time served while in River City, MonDay, or CCC.

## 2. Compliance Testing

- a. Participant shall call the PassPoint ocular scan system voicemail daily between 6:00 A.M. and 9:00 A.M. to find out if they is required to submit to a scan/test that day. Participant shall also submit to random, frequent observed urine screens if requested by a member of the FNS team. If Participant fails to submit an ocular scan and/or a urine specimen, tampers with the urine specimen, submits the sample of another, dilutes their specimen, or fails to produce a sufficient quantity of urine needed for analysis, then they shall be immediately sanctioned as if the urine screen produced a positive result. Should Participant deny any use when confronted regarding a positive urine screen, the specimen shall be sent to a certified outside laboratory for testing by GC/MS. Participant may be subject to a probation violation hearing if their GC/MS results are positive. Participant shall also submit to testing of their breath or blood as required by any member of the FNS team.
  - b. Participant may be ordered to wear an electronic GPS monitoring bracelet. Participant's costs shall be a fifty dollar (\$50.00) installation fee and up to ten dollars (\$10.00) per day. The Judge maintains discretion to waive fees if the participant is indigent.
  - c. Participant may be ordered to wear a Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelet. Participant's costs shall be a fifty dollar (\$50.00) installation fee and up to ten dollars (\$10.00) per day. If ordered, Participant shall have a land line phone installed at their residence and at their cost. The Judge maintains discretion to waive fees if the participant is indigent.
  - d. Participant shall provide information regarding prescription medications to their assigned probation officer.
3. Participant shall pay their Court-ordered child support obligations.
  4. Participant agrees to voluntarily report to the FNS team any violations of the Program rules, including Participant's use of illegal drugs and/or alcohol.
  5. Participant shall pay a probation supervision fee of thirty-five dollars (\$35.00) per month for the duration of the term of community control. None of the thirty-five dollar (\$35.00) probation supervision fee shall be used as part of the treatment costs.
  6. Participant shall obtain and maintain full-time, legitimate employment unless otherwise waived by the Court.
  7. Participant shall comply with any additional community control requirements the Court may impose.
  8. FNS incorporates ongoing judicial interaction with each Participant. Therefore, Participant shall attend all scheduled Court appearances, including regular status review

hearings. The participant maintains the right to request the attendance of defense counsel during the portion of any treatment team meeting and/or status review hearing concerning the participant. Defense counsel will be present at treatment team meetings and status review hearings to represent any participant facing a probation violation hearing and/or graduated sanction.

9. Participant shall obtain and carry with them at all times a pocket calendar. Participant shall write the dates for all scheduled treatment sessions, status review hearings, probation/employment liaison appointments, drug screens, and work/school/GED class schedules in said pocket calendar. Participant shall make said pocket calendar available for inspection by any member of the FNS team at any time.
10. Participant shall abstain from the use or possession of any illegal drugs, alcohol, or synthetic cannabinoids (including, but not limited to, Spice or K2) while in the Program.
11. Participant shall inform the FNS team of any and all prescriptions obtained by Participant the next business day after receipt of said prescription. He/she shall obtain permission from the FNS team before getting the prescription filled. Participant shall inform the FNS team of any and all over-the-counter medications that they may be using. It is Participant's responsibility to confer with a pharmacist or medical professional to see that any medication, whether prescribed or over-the-counter, is not mood altering or addictive and that it does not contain alcohol. Use of any such medication, irrespective of whether it is prescribed or obtained over-the-counter, could result in the Participant's unsuccessful termination from FNS based on an individual determination.
12. Participant shall sign an authorization for release of information form to provide for communication of confidential information, participation/progress in treatment, and compliance with the provisions of relevant law, including the "Health Insurance Portability and Accountability Act of 1996." 42 U.S.C. 300gg-42, as amended, and sections R.C. 2151.421 and R.C. 2152.99.
13. Participant shall inform the FNS team of any changes in employment within twenty-four (24) hours of the occurrence of the change.
14. Any change in address must be approved by the assigned probation officer prior to the change.
15. Participant shall not associate with anyone known to be actively involved in the sale or use of illegal drugs. Participant shall not become romantically or sexually involved with another FNS Participant.
16. Participant shall adhere to a dress code for all FNS appointments:
  - No short shorts or mini skirts;
  - No spaghetti straps or tank tops;
  - No tops or dresses with cleavage exposing any portion of the breast;
  - No halter tops or strapless tops/dresses;
  - No skin tight pants, skirts, or shorts;
  - No baggy pants;

- No see through clothing;
- No clothing that makes reference to drugs and/or alcohol; and
- No sexually suggestive clothing.

For status review hearings, Participant shall be dressed in clean, neatly groomed clothing. Any noncompliance with the dress code may result in Participant being asked to leave and face a possible sanction.

17. At the time of a positive drug test (which may include a test taken upon entry to the program), the FNS team may consider an adjustment in treatment and/or the possibility of sanctions. Any change in the case plan and/or sanctions are enforced and reinforced by the Judge.
18. Participant shall be subject to sanctions which may be imposed by the Court in furtherance of treatment. Immediate, graduated, and individualized sanctions govern FNS responses to the participant's noncompliance. Graduated sanctions are used to help the participant conform behavior to program requirements. Sanctions are crafted in an individualized and creative manner, as well as in a progressive manner based on the infraction. Any participant facing imposition of a sanction will be represented by defense counsel at the treatment team meeting as well as the status review hearing. Sanctions are issued when there is noncompliance with either program protocol or the case plan. Sanctions shall be used as a deterrent to negative behavior and to encourage future compliance. All therapeutic adjustments in services, as well as participation in community-based mutual support meetings, is based solely on the clinically informed interests of the participant. Incremental adjustments to the case plan made at the discretion of the Judge and the treatment team are not to be considered sanctions. However, failure to comply with case plan adjustments will subject the participant to sanctions

The following are examples of undesired behaviors:

- Failure to attend Court appearances;
- Failure to attend appointments with the employment readiness providers;
- Failure to take prescription medications as directed;
- Failure to attend substance abuse and/or mental health assessments/treatment sessions;
- Failure to attend a parenting program;
- Failure to complete employment readiness programming;
- Failure to obtain and/or maintain full-time, legitimate employment, or leaving employment when new employment has not been secured;
- Failure to pay Court-ordered child support obligations;
- Failure to follow FNS rules;
- Failure to keep scheduled appointments with the probation officer, treatment clinicians, case manager, or any other treatment team member;
- Noncompliance with other requirements of the case plan;
- Failure to have his/her calendar at all FNS appointments;
- Noncompliance with random alcohol and drug screens, or testing positive for alcohol and/or drugs;
- Failure to comply with the FNS *Participation Agreement*;
- Failure to maintain confidentiality outside of treatment groups;
- Failure to improve troublesome behavior;



- Failure to complete community service hours;
- Failure to meet employment or vocational goals as determined by the case plan; and
- Failure to keep other appointments as scheduled, such as those for public benefit aid, health care benefits, housing assistance, etc.

The following are examples of sanctions:

- Warnings and admonishments from the Judge;
  - Increasing frequency of alcohol and drug testing;
  - More frequent Court appearances (weekly or bi-weekly reviews);
  - Refusing specific requests, such as permission to travel;
  - Denying additional or expanded privileges, or rescinding privileges previously granted;
  - Increasing supervision contacts and monitoring;
  - Issuing a no contact order with identified individuals;
  - Individualized sanctions such as writing essays, reading books, or performing other activities to reflect upon unacceptable behavior;
  - Imposition of suspended fines;
  - Ordering community service;
  - Ordering corrective thinking classes;
  - Electronic GPS monitoring or SCRAM (Secure Controlled Remote Alcohol Monitoring) bracelets;
  - Escalating periods of jail time;
  - Filing of probation violation; and
  - Unsuccessful termination from FNS.
19. Failure by Participant to attend a scheduled status review hearing, treatment appointment, urine screen, or probation appointment, or other ancillary services appointments may result in the issuance of a warrant for their arrest.
  20. Participant agrees to maintain confidentiality in reference to information shared during status review hearings and/or treatment sessions regarding other FNS Participants.
  21. Participant agrees to abide by the rules of community control and be supervised by the Butler County Adult Probation Department.
  22. In order to successfully graduate from FNS, Participant shall demonstrate compliant behavior with the rules of FNS and the FNS *Participation Agreement*; successfully complete all four (4) phases of FNS; pay at least the current child support obligation as ordered; successfully complete all treatment and programming; abstain from alcohol and/or drugs for at least ninety (90) days prior to graduation (as evidenced by negative urine screens); and subsequently pay their other Court-ordered financial obligations, including Court costs, supervision fees, and restitution (if applicable).
  23. Participant understands that noncompliant behavior with the rules of the FNS *Participation Agreement* may result in a probation violation hearing. At said hearing, Participant may have the conditions of their community control modified. Modifications

may include, but are not limited to, commitment to a Community Based Correctional Facility (CBCF), termination from FNS, and/or revocation of Participant's community control.

24. Participant understands that the FNS Judge may neutrally discharge them from FNS if the participant is no longer capable of completing FNS as a result of any of the following: a serious medical condition; death; other factors that may keep the participant from meeting the requirements for successful completion and discretion of the FNS Judge to determine the participant is no longer appropriate for FNS. Upon neutral discharge from FNS, the level of community control supervision shall be determined by the Judge.

Participant acknowledges that they have read and understand this agreement, freely and voluntarily relinquish the rights discussed herein, and agree to abide by all the rules and conditions of FNS.

**PLEASE NOTE:** Upon entering FNS, participant's information will be disclosed to the Supreme Court of Ohio for purposes of statistical reporting. If participant has a substance use disorder and is receiving treatment, the Supreme Court of Ohio will provide participant's information to the Ohio Automated Rx Reporting System (OARRS) maintained through the State of Ohio Board of Pharmacy. That information will stop being reported upon participant's exit from the program.

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Signature of Participant

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Date

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Signature of Participant's Attorney

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Date