

TREATMENT COURTS IN NEBRASKA –ALTERNATIVES TO INCARCERATION

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Petersen Criminal Defense Law

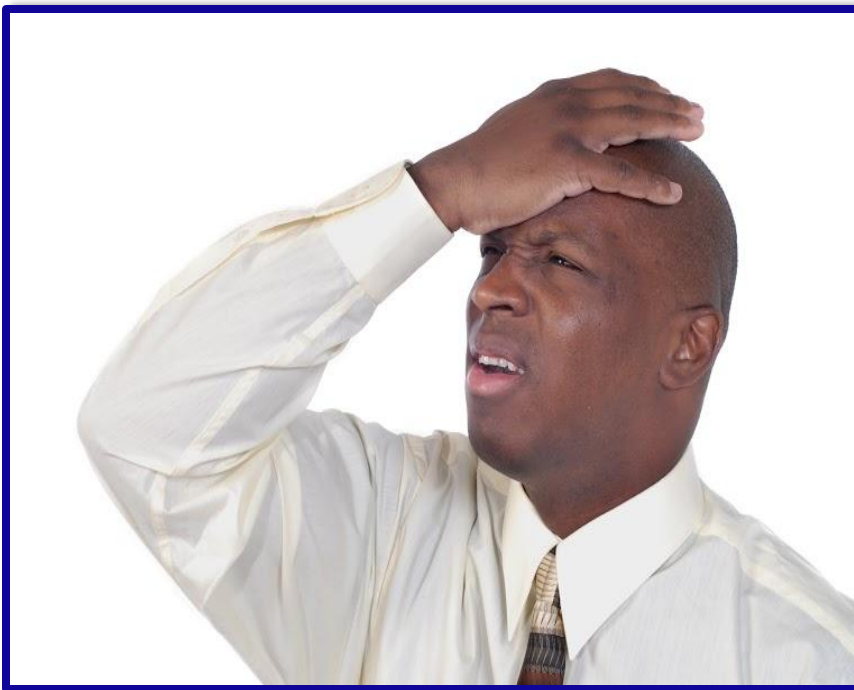


Statistics continually show that the majority of offenders serving time in the country's state and federal prisons are suffering from mental illness, drug or alcohol addiction, or both. For decades, legislators, judges, and the public in general retained a "tough on crime" philosophy that essentially ignored these root causes of crime and instead chose to focus on punishing offenders. In recent years, however, the tide has begun to turn.

Instead of handing down lengthy prison sentences judges are beginning to consider alternatives that focus more on treating the underlying mental health and addiction problems. In fact, many states, including the State of Nebraska, now have special "Problem-Solving Courts" devoted specifically to offenders with addiction problems.

If you are currently facing charges in Nebraska, or have a loved one who is, it is in your best interest to consult with an experienced Nebraska criminal defense attorney to determine if a special treatment court is an option in your case. In the meantime, it may help to learn more about Nebraska's "Problem-Solving Courts."

HOW SERIOUS IS THE PROBLEM?



Most people acknowledge that mental illness and drug addiction are common precursors to criminal behavior.

Individuals who suffer from an undiagnosed and/or untreated mental illness often try to "self-medicate." Drug addicts who run out of legitimate

sources of money to pay for their drug habit will often turn to crime as a source of money. Many of these individuals eventually end up serving lengthy sentences in a state or federal prison. Just *how* bad is the problem though?

According to a survey conducted by the U.S. Department of Justice in 2005, over half of all jail inmates across the nation were suffering from a mental health problem. At that time, that accounted for 705,600 inmates in state prisons, 78,800 in federal prisons, and 479,900 in local jails. That is well over **one**

million people suffering from a mental illness who, instead of getting treatment, were sitting in a prison cell. In addition, over half of the inmates in state and local jails had a substance abuse problem and **three out of four** were found to have **both** a mental illness and substance abuse problem. Not surprisingly, **one in four** inmates with a mental health condition had served *three or more prior incarcerations*.

WHAT ARE “PROBLEM-SOLVING COURTS”



Fortunately, criminal justice systems across the country are finally beginning to recognize the strong correlation between issues such as mental illness and drug addiction and criminal conduct. More importantly, they are starting to rethink the

wisdom of sentencing offenders to lengthy prison sentences for less serious offenses. Instead, the concept of *treatment* has started to take root. Nebraska is one of many states that now devote entire courts to handling offenders who suffer from mental illness and addiction. The purpose of Nebraska’s Problem-Solving Courts, therefore, is to reduce both crime and addiction.

WHAT TYPES OF TREATMENT COURTS ARE AVAILABLE?

Nebraska's Problem-Solving Courts, or PSCs, are operated at the county level. Therefore, not all counties will have all of the different types of PSCs. PSCs that may be available include:

- Adult Drug Court
- Juvenile Drug Court
- Family Drug Court
- DUI Court

WHO IS ELIGIBLE FOR A PROBLEM-SOLVING COURT?



Nebraska's PSCs are operated on the county level. In addition, there may be more than one type of PSC operating in a single county. As a result, eligibility criteria will vary somewhat from one county to another and from one court to another. In general, however, the

primary goal of the drug treatment courts is to target “high risk” and “high need” defendants.

High need defendants are those who have indicators of substance abuse disorders while high risk defendants are individuals who are likely to reoffend and/or who are likely to fail at a less intensive sentence/intervention such as probation. As a general rule, only defendants facing felony charges are accepted into a treatment court program; however, individual courts may choose to accept defendants with less serious offenses if the resources exist to do so. While most drug treatment courts do not disqualify defendants based on past criminal history, the current charge typically needs to be a non-violent offense.

HOW IS A CASE TRANSFERRED TO A TREATMENT COURT?

Referral to one of Nebraska’s PSCs can be made by a prosecuting attorney or even by a judge. However, most often it is a defendant’s criminal defense attorney who recognizes the need and the opportunity and then works to get the defendant accepted into a program.



HOW DOES TREATMENT COURT WORK?



Once a defendant has been accepted into one of the PSCs, jurisdiction over the case is moved to that court, meaning the judge in the PSC oversees the case from then on. Most defendants spend a minimum of 18 months in treatment court before their case can be successfully terminated. During that time, the individual will be required to comply with an individualized treatment plan.

Some defendants are required to spend time in an inpatient substance abuse treatment program while others start with intensive

outpatient treatment. Most defendants are also required to attend individual and group counseling sessions. If a mental health condition is suspected, the defendant may also be required to submit to a mental health evaluation as well and follow through with any treatment recommendations.

In the beginning, most participants are also required to appear in court on a weekly basis and to submit to random drug and alcohol screening. As the participant successfully passes through stages of the program, the court “check-in” requirement is typically reduced to a monthly basis. Only when the program administrators and the court are convinced a defendant is prepared to be placed back into society unsupervised will the defendant’s participation in the PSC be concluded.

WHAT ARE THE BENEFITS OF PARTICIPATING IN A PROBLEM-SOLVING COURT?



For most defendants, the initial incentive for participation in a PSC is the potential to have their charges dismissed upon successful completion of the program. Of course, the true goal of the program is found in the long-term benefit

both to the participant and to society. Study after study has shown treatment courts to be significantly more effective in the long run for defendants with a substance abuse addiction than either long-term incarceration or probation.

If a participant does not successfully complete the program, the case is sent back to the original court to move forward with prosecution in a traditional criminal court.

REFERENCES

Bureau of Justice Statistics, [Mental Health Problems of Prison and Jail Inmates](#)

Nebraska Judicial Branch, [Problem-Solving Courts](#)

University of Nebraska Public Policy Center, [Evaluation of Nebraska's Problem-Solving Courts](#)

Nebraska Judicial Branch, [Article 12: Problem-Solving and Drug Courts](#)

Douglas County District Court, [Adult DrugCourt](#)

About Petersen Criminal Defense Law



Omaha, Nebraska Law Firm: Committed To Making Your Voice Heard By The System

Established in 1995, Petersen Criminal Law follows a simple firm philosophy: Our clients are presumed innocent until proven guilty. Our firm's attorney, Thomas M. Petersen, has devoted his career to this philosophy, helping clients throughout the Omaha, Nebraska, area make sure their voices are heard in the criminal defense system.

In that time, he has handled over 6,000 criminal defense cases and represented clients in numerous trials. This experience means he is a battle-tested veteran of the criminal defense system who has committed himself to putting to work for you the insights he has gained.

Your Decision Today Affects The Rest Of Your Life

Facing criminal charges means your future is at stake. You do not have to let a Nebraska criminal case ruin your life, though your choices today do affect your future.

For that reason, you want an adviser in your corner who has traveled this road before and understands the terrain. You do not want to test your ability to learn the law on your own when your own liberty is at stake.

No Lectures. No Judging. We Just Defend You.

Call Petersen Criminal Law at 402-909-0367. You can also schedule your initial consult by contacting the firm online. All consultations with our firm remain completely confidential.

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