

MICHIGAN SUPREME COURT  
2012 Judicial Conference

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**Swift and Sure Sanctions Pilot  
Program (SSSP)**

FACULTY

Ms. Dana Graham – SCAO, Trial Court Services

Hon. Paul Chamberlain – Isabella County Trial Court, 76<sup>th</sup>  
District Court, 21<sup>st</sup> Circuit Court

Hon. Amy McDowell – Barry County Trial Court, 56B  
District Court, 5<sup>th</sup> Circuit Court

Hon. Timothy Kenny – 3<sup>rd</sup> Circuit Court

Hon. Sterling Schrock – Berrien County Trial Court

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**BERRIEN COUNTY TRIAL COURT  
SWIFT & SURE SANCTIONS PILOT PROGRAM (SSSP)**

**SWIFT AND SURE SANCTIONS PARTICIPATION AGREEMENT**

Defendant Name \_\_\_\_\_ Case Number \_\_\_\_\_

Charge (s) \_\_\_\_\_

The above named defendant is accepted into the Swift and Sure Sanctions Pilot Program (SSSP) if he/she agrees to the rules and conditions of the program set forth below. If he/she agrees, the above Probationer will be ordered into the SSSP Program and must adhere to the conditions and rules of the program set forth below. If the defendant commits a violation of any of the conditions listed below or violates any conditions of probation, he/she may be immediately confined in the Berrien County Jail in accordance with the sanctions grid attached. If the defendant successfully completes all terms and conditions of the SSSPP to the Judge's satisfaction, he/she will be granted a successful discharge from the program and his/her probationary sentence.

**APPLICANT'S STATEMENT:**

**The above named defendant agrees to abide by the terms and conditions of the SSSP Program set forth below. I understand that:**

1. As a Michigan Department of Corrections probationer I understand that if I violate any terms or conditions of my probation addressed in the attached sanctions grid I will be sentenced to jail.
2. If it is discovered that at any time during my involvement in the program that I have falsified information my case may be returned to the original sentencing judge and I may be discharged from the SSSP Program.
3. If I am convicted or a violation of any criminal law is established for an offense that occurs after my admission to the SSSPP I will be removed from the program and my case will be returned to the original sentencing Judge.

In addition to the conditions in my probation order, I agree:

1. To remain a resident of Berrien County.
2. To be open and honest about my use of drugs and alcohol.
3. To have a sincere desire to become sober and drug-free.
4. That I understand the consequences of entry into the program and agree to comply with all court orders and requirements of the court's program and treatment providers.
5. That I am physically and mentally capable of meeting program requirements.
6. That I will not live with someone who uses or sells drugs or abuses alcohol.
7. To cooperate with any future evaluations and assessments as directed.
8. To obtain or be actively working toward a high school diploma or GED if not already obtained.
9. To make genuine effort to find and maintain employment, and provide ongoing verification of employment.
10. To remain drug and alcohol free.
11. To successfully complete substance abuse counseling as directed.
12. To complete random drug testing as directed.
13. To pay court fines, costs, fees, and restitution as imposed at sentencing.
14. To remain crime-free.

15. To successfully complete all terms and conditions of probation.
16. To follow-up with all referrals that will assist me in maintaining sobriety and a law-abiding lifestyle in the community.
17. Advise my probation officer of all prescribed medications.
18. That the data in my file may be used for research, data analysis and program evaluation by Berrien County Trial Court staff and/or the SSSPP Grant. I also agree to be contacted by and cooperate with SSSP Program staff or research personnel at some point in time after I have been discharged from probation.
19. To waive sentencing by the original sentencing judge if sentenced under the sanctions grid.

### **Waiver of Attorney**

**I have consulted my attorney and I understand the benefit and risk of the SSSP Program and have talked to my attorney about entering the SSSP Program. I agree that my attorney will not be present at any SSSPP proceedings including but not limited to the imposition of sanctions for any and all violations of program and/or probation conditions which fall within the attached sanctions grid.**

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Participant's Signature

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Date

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SSSPP Judge

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Date



## BERRIEN COUNTY TRIAL COURT SWIFT & SURE SANCTIONS PILOT PROGRAM (SSSPP)

### SANCTIONS GRID

- Violations for:
  - failed drug or alcohol test
  - failed to appear for:
    - drug or alcohol test
    - probation appointment
    - treatment appointment
    - any other FTA without effort to notify or reschedule:

First Violation	5 days in Berrien County Jail
Second Violation	10 days in Berrien County Jail *
Third Violation	15 days in Berrien County Jail *
Fourth Violation	Dismissal from Swift and Sure; Return to original sentencing Judge for sanctions*

\* Contested positive drug tests that are later confirmed positive will be subject to next step violation sanction.

- In addition to jail, probationers with two failed drug or alcohol tests shall be evaluated for substance abuse treatment and referred to an appropriate treatment agency or facility.
- Violations of any other probation condition:

First Violation	3 days in Berrien County Jail
Second Violation	5 days in Berrien County Jail
Third Violation	10 days in Berrien County Jail
Fourth Violation	Dismissal from Swift and Sure; Return to original sentencing Judge for sanctions.

- Conviction for or established violation of any criminal law other than a traffic misdemeanor (except any alcohol related driving offense, even if plead to lower charge):

Defendant is removed from program and sent back to sentencing Judge.

- These sanctions serve as guidelines. Sentencing is left to the discretion of the Judge with recommendation from the Probation Agent, therefore participants may or may not receive credit for time served. If in the discretion of the Judge a participant will not be sentenced for a violation consistent with this Sanctions Grid guideline, the participant will not be sentenced without having the opportunity to consult an attorney.



# **BERRIEN COUNTY TRIAL COURT SWIFT & SURE SANCTIONS PILOT PROGRAM (SSSPP)**

## **POLICY, PURPOSE, CRITERIA, PROCEDURES FOR STAFF**

### **Policy:**

The Berrien County Swift and Sure Sanctions Pilot Program (SSSPP) is a special Trial Court program modeled after Hawaii's Honest Opportunity with Probation Enforcement (HOPE) program. The goal of SSSPP is to identify high risk probationers who were unwilling or unable to desist from crime, violation of probation conditions, and/or drug/alcohol use under typical probationary sanctions pressure. The probationer is intensively supervised and subjected to frequent and random drug/alcohol testing which result in treatment decisions based on the probationer's behavior to achieve compliance with all probation conditions. Graduated, clearly defined sanctions are imposed in accordance with a Sanctions Grid. Probationer compliance is increased when the probationers are informed of the conditions for compliance with their probation order and then warned in open court of the immediate consequences for any violations. SSSPP operates under the following principles:

- A clearly defined behavioral agreement
- Consistently delivered sanctions
- Swiftly delivered sanctions
- Parsimonious sanctions
- Fair and respectful management of probationers

Probationers who achieve compliance are at reduced risk for recidivism while the community benefits from increased safety and the efficient use of treatment and jail resources that result in cost effectiveness.

### **Purpose:**

The purpose of this policy is to establish the criteria and procedures that define the goals of the Swift and Sure Sanctions Pilot Program:

- Probationers are aware of their probation terms, as well as the consequences for any violation.
- Probationers are closely monitored and every detected violation is sanctioned.
- Probationers are arrested as soon as a violation has been detected and are taken before a Judge.
- Probationers are sentenced with the least punishment necessary to bring about behavioral change. Continued violations result in graduated sanctions.
- Probationers will be managed fairly and respectfully to improve compliance. The Judge and the Probation Agent will make it clear that they want the defendant to succeed.

## **CRITERIA**

### **Probationer Eligibility:**

The target population for SSSPP is adult Felony probationers identified as high risk for failing probation according to a validated risk and needs assessment instrument. These individuals may have a history of:

- **Probation failures**

- **Alcohol use or abuse**
- **Drug use or abuse**
- **Failure to appear for appointments**
- **Recidivism**

Michigan Department of Corrections (MDOC) will identify current and future participants through screening and the Pre-Sentence Investigation process and recommend that the sentencing Judge place the individual in the SSSPP.

A defendant may become a participant in the program through the order of a sentencing judge or at the recommendation of a MDOC Probation Agent or a defense attorney.

## **PROCEDURES**

**Participants may be considered for SSSPP at any time during the case process. Once eligibility is determined the defendant may enter SSSPP following a guilty plea or after a finding of guilt at trial.**

**The participant is sentenced to probation under SSSPP by the sentencing judge, after consulting with defense counsel.**

### **Defendant meets with Probation Agent (PA):**

- 1) PA reads probation order and establishes relationship with probationer.
- 2) PA assures that probationer understands all SSSPP criteria and forms have been explained and/or completed including but not limited to:
  - a. SSSPP Participation Agreement and Sanctions Grid.
  - b. Notice to Appear for Warning Hearing with Judge.
  - c. Probation Order.
  - d. Performs initial Drug and/or Alcohol Tests.
- 3) PA administers all requirements during monitoring of probation.

### **Probationer's Warning Hearing:**

- 1) A defense attorney will be present for consultation.
- 2) Judge advises in open court the nature of SSSPP, provides encouragement to the participant, and secures the participant's understanding of the agreement and Sanctions Grid.
- 3) Judge may modify conditions of probation which may include but are not limited to:
  - a. Meet financial responsibilities.
  - b. Obtain assessments and/or evaluations.
  - c. Obtain/maintain treatment as determined by evaluations.
  - d. Community service work.
  - e. Complete/continue education.
  - f. Obtain and/or maintain employment if appropriate.
  - g. Pay fine/costs/restitution/fees, etc.
  - h. Drug and/or alcohol testing
  - i. Comply with all the conditions of probation.
  - j. Cooperate fully with the coordinator and probation officer.

**Coordinator Responsibilities:**

- 1) Enable communication and cooperation among Stakeholders.
- 2) Ensure completion of checklist.
- 3) Perform drug and/or alcohol tests.
- 4) Complete data entry.
- 5) Assure PV warrants are entered into LEIN as required.
- 6) Notify Sheriff and/or police agency of warrant for immediate pick-up.
- 7) Maintain paperwork and database to track participants.
- 8) Facilitate drug testing through scheduling with various agencies
- 9) Regular and reliable contact with drug testing agencies.
- 10) Scheduling with SSSPP Judge to ensure Violation hearings are done within 72 hours.

**Defendant Violates Probation:**

- 1) Probation Agent initiates bench warrant and alerts Coordinator.
- 2) Coordinator ensures bench warrant entered in LEIN if required.
- 3) Coordinator contacts Sheriff's Department to execute warrant.
- 4) Probationer is detained and remains in custody until PV hearing, where a high bail will be set.
- 5) Violation hearing to occur within 72 hours of violation
- 6) Probationer brought before Judge and sentenced per Sanctions guidelines.
- 7) In the case of a disputed drug test, defendant may be released and required to post bond pending confirmation testing and given a notice to appear for a later hearing. Jail sanctions are enhanced if drug use is confirmed, as set forth in Sanctions Grid.
- 8) Coordinator keeps record of violations and outcomes.
- 9) The Sanctions Grid will serve as a guideline. Sanctions are left to the discretion of the Judge with recommendation from the Probation Agent. Conviction for or establishment of any criminal law violation other than a traffic misdemeanor (except any alcohol related driving offense) while in the SSSPP will potentially result in removal from the program.

BRIEF OVERVIEW OF  
SWIFT & SURE SANCTIONS PROGRAM  
AND ADULT INTENSIVE PROBATION

**SWIFT & SURE SANCTIONS PROGRAM:** The SSSP is a type of probation that offers a shorter length of moderately intensive probation. The program is a minimum of 180 days, however it can be extended if the probationer violates terms of probation. The SSSP's primary focus is compliance, with immediate sanctions for all non-compliance, no matter how minor the violation. Sanctions shall be imposed as quickly as possible, with all violations resulting in immediate arrest/confinement. Violation and sentencing hearings are typically held within 1 – 3 days. Sanctions are also tailored individually to each situation and defendant in order to make the most impact. The SSSP probationer is required to attend an initial Warning Hearing; a critical event to officially inform the probationer of the program, its expectations, and immediate sanctions. All other terms and expectations of probation, including reporting, drug testing, and any other expectations, are handled the same as regular probation. The probationer is not required to attend regular review hearings, however he/she is required to attend probation violations and/or hearings of non-compliance. Services are continued during any incarceration with court provided transport to and from programs. Jail to community re-entry plans are provided for any incarceration.

**ADULT INTENSIVE PROBATION PROGRAM:** The AIP is a type of probation that offers a longer length of intensive probation, with three phases, each lasting 90 days (total of 270 days). Length of phases shall be extended if the probationer violates terms of probation. The AIP's primary focus is compliance through a therapeutic approach, with immediate known sanctions for all non-compliance. Sanctions shall be imposed as quickly as possible, with all violations resulting in immediate arrest/confinement. Violation and sentencing hearings are typically held within 1 - 3 days. Sanctions are tailored individually to each situation and defendant to make the most impact. The AIP probationer is required to attend weekly hearings/meetings with the Judge as well as any probation violation hearing or hearings regarding non-compliance. At intake to the program, a case plan, that includes jail to community re-entry, is written by the Program Coordinator and tailored individually to each probationer to encourage the most successful probation participation possible. The case plan is reviewed and updated by the Probation Agent/Officer, Presiding Judge, and Program Coordinator at review hearings.



## KEY ELEMENTS

SSSPP targets probationers at high risk of failure

An initial notification hearing informs each probationer about the program's expectations and consequences

Frequent random drug testing is conducted

Sanctions include swift and certain jail sentences for every proven probation violation

Drug treatment is mandatory for people who do not abstain from drug use and for those who request it

Referrals for mental health treatment, adult education and employment assistance are provided by various local treatment/assistance providers



Honorable Timothy M. Kenny  
Presiding Judge

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## Third Judicial Circuit of Michigan



## Swift and Sure Sanctions Pilot Program

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## Program Description



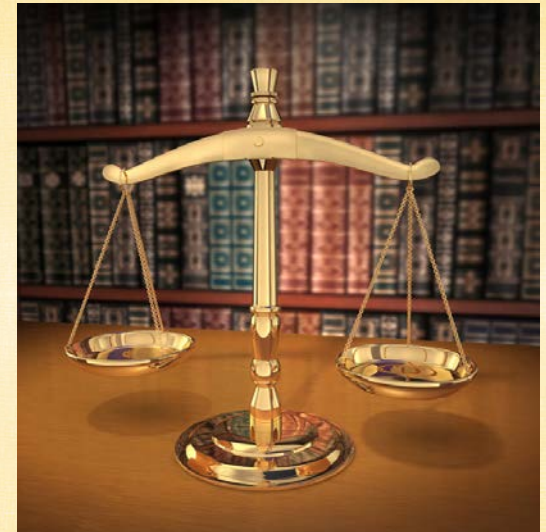
Modeled after Hawaii's HOPE (Hawaii Opportunity Probation with Enforcement) Program, the Swift and Sure Sanctions Pilot Program (SSSPP) is an intensive probation program which targets high risk offenders with 2 or more violations of probation. Designed to provide an immediate response to non-compliance, the SSSPP requires more frequent face-to-face monitoring, random drug screenings and judicial interaction. The goals of the SSSPP are to reduce recidivism and enhance compliance. Any proven violation will result in swift and certain jail time.

## Program Eligibility



The SSSPP is a 1 year program for offenders on felony probation with 2 or more probation violations or other non-compliant behavior. They may exhibit drug and/or alcohol dependence, have mental health issues, violent behavior, or other antisocial behavior, including sexual deviance. Probationers that have demonstrated an inability or unwillingness to comply with probation conditions while on regular probation are prime candidates for the program.

## Program Benefits



The graduated sanction approach that the SSSPP uses has proven to be an efficient and effective method for deterring non-compliance. The elevated level of supervision and law enforcement involvement assists in upholding the integrity of the court's probation orders. As a result, there are fewer violations, enhanced compliance, a reduction in recidivism and lower costs across the criminal justice system.



<http://courts.michigan.gov>