

Removal of ECRM Language

ACT 33 / Aider and Aided Persons Immunity

**8/14/2023 – REMOVAL w/in ECRM: ECRM > SUPERVISION > DCC > SUPERVISION
PROCESS > VIOLATIONS > AIDER AND AIDED PERSONS IMMUNITY**

Current ECRM Language to REMOVE ENTIRE SUB-SECTION BELOW:

Aider and Aided Persons Immunity

.01 Authority

[AD 20-04](#)

.02 General Statement

The revocation of parole, probation, or extended supervision shall be prohibited for certain violations for an aider or aided person who was suffering or believed to be suffering from an overdose or other adverse reaction. The immunity from revocation is under the circumstances surrounding or leading to the aider's actions.

.03 Eligibility

- a. Aider or aided persons immunity events that occurred on or after July 19, 2017 are subject immunity.
- b. No Aider may have his or her parole, probation, or extended supervision revoked, and is immune from prosecution for the following offenses under the circumstances leading to his or her aiding another individual
 1. Possession of drug paraphernalia under [s. 961.573](#)
 2. Possession of a controlled substance or a controlled substance analog under [s. 961.41 \(3g\)](#)
 3. Possession of a masking agent [s. 961.69\(2\)](#)
- c. An Aider is defined as a person who makes contact with any of the following individuals if the aided person is, or if a reasonable person would believe him or her to be, suffering from an overdose or other adverse reaction:
 1. An individual who staffs the emergency room, hospital, fire station, or other health care facility to which the aider brings the aided person
 2. A law enforcement officer, ambulance, emergency medical technician, or other health care provider summoned by the aider

3. An individual answering "911" or the number for an EMS provider called by the aider
 4. In addition to completing one of the above, a person is an "aider" only if the aider's attempt to obtain assistance occurred immediately after the aider believes the other person is suffering from the overdose or other adverse reaction. [\[TDV1\]](#)
- d. An aided person is immune from revocation under the circumstances surrounding or leading to an aider's request for assistance only if the aided person completes a treatment program as a condition of his or her parole, probation, or extended supervision.
1. If a treatment program is unavailable or would be financially prohibitive, provide responses consistent with EBRV, without proceeding with revocation.
 2. If the client refuses treatment and a treatment program is available or not otherwise financially prohibitive, revocation may be pursued as an option, so long as it is consistent with EBRV.
- e. Interstate Compact offenders supervised in Wisconsin from another state shall be supervised consistent with the supervision of other similar offenders sentenced in the receiving state. Interstate Compact rules should be followed for these offenders.
- f. Treatment is considered "financially prohibitive" if all of the following conditions are met:
1. The offenders Combined Monthly Household Income (CMHI) is less than \$800
 2. The cost of treatment would impact the offender's basic living needs or those of their dependents
 3. Treatment is unavailable through DOC Purchase of Offender Goods and Service funding or from coverage through other sources such as private insurance or Medicaid
- g. Treatment is considered "unavailable" if there is an inability to be admitted into a treatment program appropriate for the offender's needs within the state of Wisconsin within 60 days. The 60 day period begins the date the determination is made the event is an event subject to immunity. Out of state treatment options can be reviewed on a case-by-case basis subject to Interstate Compact rules.

.05 Process

Normal detention and time frame procedures shall be followed. The initial hold code most appropriate to the violation should be used.

- a. If it has been determined the violations fall under immunity requirements and that treatment is available within 60 days, the agent shall staff available options with the field supervisor. If the actual response level on the EBRV is high or very high and the staffing decision is to pursue residential treatment, a sanction may be imposed until the

start date of treatment. If outpatient treatment is pursued or a sanction is not part of the disposition, the offender will be released from custody on the date the [DOC-2834](#) is signed.

- b. For aided persons, the agent shall prepare and serve the [DOC-2834](#). For persons meeting the criteria of an aider, the [DOC-2834](#) does not apply. The offender must sign the [DOC-2834](#). The offender may refuse programming, however this refusal may result in revocation and must be obtained via signature on the DOC-2834. The signature shall be obtained no later than 48 hours after the determination has been made regarding treatment. The agent shall ensure the client receives a copy of the [DOC-2834](#).
- c. If it has been determined that treatment options are not available or are financially prohibitive as outlined in the [Eligibility Section](#), the agent and supervisor shall provide responses consistent with EBRV without pursuing revocation. If the offender refuses treatment, this may subject the offender to possible revocation of their community supervision.