

MEMORANDUM

TO: Problem Solving Court Judges and Problem Solving Court Coordinators
FROM: Special Supreme Court Committee on Justice and Mental Health Planning
DATE: July 17, 2026
RE: PSC Relevant Topic Memo

To provide technical assistance on topics relevant to PSCs across the state, this regular memo will provide valuable information on various topics. This memo will be sent to all PSC Judges and PSC Coordinators. The Special Supreme Court Advisory Committee on Justice and Mental Health Planning (JMHP) has approved this memo for distribution. The Education Subcommittee of JMHP provided feedback and insight on the memo and the memo was approved by the full Committee on July 17, 2026.

When to Terminate?

The Problem-Solving Courts (PSCs) in Illinois work to serve participants whose behavior has resulted in a criminal charge due to issues related to substance use and/or mental health disorders. The goal for each of these participants is to complete the PSC program successfully and graduate. The unfortunate reality is that not all who participate will successfully complete the program. Some participants may choose voluntary withdrawal, or some will receive a neutral discharge. In this memo, we focus on the painstaking decisions leading to a termination hearing. The decision to move forward with a discharge hearing is one that does not come easily for PSC teams and yet can be one of the most important and consequential decisions they make.

PSC team discharge hearing discussions often focus on when “enough” is “enough.” There are different variables that may lead to a participant being unsuccessfully discharged from a PSC. These variables may include multiple positive urine screens, lack of participation in treatment, not attending court hearings, not attending probation appointments, new police contacts and others. When considering these variables, PSCs in Illinois are guided by the Illinois Supreme Court Problem Solving Court Standards and All Rise Adult Treatment Court Best Practice Standards (Standards).

The Standards provide that before discharging a participant unsatisfactorily, the judge should find, by clear and convincing evidence, that the participant poses a serious and imminent risk to public safety that cannot be prevented through the court’s best efforts, or that the participant is unwilling to receive treatment or services that are minimally required for the person to achieve rehabilitative goals and avoid recidivism or that the participant has repeatedly refused or

neglected to receive those services. Although the language of the Standards focuses on evidentiary findings, those Standards offer a guide for PSC team discussions about unsuccessful termination of a participant. One of the strengths of the PSC model is that multiple disciplines provide input from their unique professional perspectives about the participant's progress, lack of progress and potential reasons underlying a participant's course in a PSC.

Regarding the first ground, risk to public safety, the team needs to review, in depth, what has led to the potential termination and the charges that brought the participant into the program originally. Even if a participant entered the PSC program on non-violent charges, violent charges within the program can create integrity issues and pose risks to other participants. While PSCs are focused on rehabilitation, we cannot neglect our duty to protect the community. If a participant is engaging in violent activities, perhaps leading to new police contacts or new charges, that behavior may supersede any positive gains in treatment or other areas. With that said, a new arrest should not lead to an automatic termination from the program. It is also important to note that the Standards provide that continued substance use is not sufficient, by itself, to satisfy this criterion for discharge.

The other ground recognized for unsuccessful termination by All Rise concerns lack of engagement in treatment. Much of the work done in a PSC revolves around treatment. Certainly, engagement in treatment leads to positive outcomes for participants. Participants who refuse to engage in treatment, who are disruptive in treatment or do not show investment in the process may not benefit from the program structure and goals. At times, treatment providers may provide feedback in staffing that continued participation may be clinically inappropriate. The presiding judge should heavily consider the input from treatment when the reason for potential termination centers on lack of engagement.

Of course, the PSC team must be mindful of difference between being noncompliant with treatment and being nonresponsive to treatment. Sometimes, noncompliance may be confused with, especially if a participant has had recent relapse or a period of regression. Other factors which may lead to a participant being nonresponsive, can include co-occurring mental health issues, unstable housing and limited support. Addressing these issues may be crucial to obtaining responsiveness to treatment. In these circumstances, thoughtful conversation may lead to alternative treatment options rather than a discharge hearing.

No matter what the discussion entails or how it concludes, the prosecutor is the team member who is responsible for requesting a discharge hearing. When that request is made, the Court is obligated to set a hearing. The participant facing discharge is entitled to a hearing that comports with due process principles, including representation by counsel, the right to confront and cross-examine witnesses, the right to present witnesses and evidence, the right to make a statement on their own behalf—all prior to the Judge making a decision to unsuccessfully discharge a participant from a PSC.

The team discussion that leads to a discharge hearing can be one of the most difficult exchanges PSC teams have. There is nothing provided statutorily or in best practices that dictates the right result. There is no magic number of chances for a participant, such as “three strikes and you’re out” because PSCs are not “cookie cutter” programs but are individualized. PSC teams are tasked with the weighty responsibility to fully consider the individual participant and to strive to understand how best to address the behavior of the individual participant.

All Rise has provided a checklist that can aid teams in the process. That checklist is added as an addendum to this memo and its use is recommended. However, it will never be an easy decision. What we know is that the discussion is appropriate to have as a team when a participant’s continued presence in the program no longer serves their rehabilitative needs or compromises public safety. The final decision to terminate should be the absolute last resort and rooted in documented patterns of participant noncompliance or safety concerns and guided by fairness. The PSC team can maintain its credibility and mission if unsuccessful termination is reserved for times when other options have been carefully weighed and found to be not reasonably feasible. The goal of the PSCs is to provide a meaningful opportunity for recovery for those who are willing and able to engage and at times there are participants who may not be ready, willing or able to engage appropriately.