



Mental Health Diversion Workflow and FAQ

The following are general guidelines to assist counsel with the MHD process in Sonoma County.

1. **Legal Authority:** Mental Health Diversion Court (MHD) is governed by Penal Code § 1001.36. In cases where a person has been deemed Incompetent to Stand Trial (IST), Penal Code §§ 1370 (felonies) and 1370.01 (misdemeanors) also apply to MHD court.
2. **Where do I find the MHD Application?** Applications for MHD should be made on the most up-to-date MHD application form which is found on the court's website. **Please include a signed RELEASE OF INFORMATION (ROI) with your application for MHD. You must list your client's current mental health providers (psychiatrist and therapist) and their contact information in the "other" box on the ROI.** Forms may be accessed here:
<https://sonoma.courts.ca.gov/system/files/forms-and-filings>
3. **Where do I file?** Applications for Mental Health Diversion must be submitted to the criminal clerk's office either in person (pro per defendants) or through E-file (attorneys). **All supporting mental health documents, INCLUDING AN ROI with the applicant's current treatment providers' contact information (psychiatrist and therapist) must be included with the filing.** Please note that Sonoma County Behavioral Health (SCBH) will request the applicant's mental health records from the applicant's current treatment providers and also from the jail's mental health provider for the applicant's most recent period of incarceration, if any, to assist with the assessment for MHD. MHD applications and supporting documents will be filed as confidential and only available to the parties served and the court. Documents filed confidentially are not accessible by the public.
4. **Do I have to serve anyone with a copy of the filed MHD application?** Yes, please serve the District Attorney's office with the entire MHD application and provide a courtesy copy to SCBH at Forensic-BH@sonoma-county.gov
5. **Do I have to include supporting documentation?** Yes, if the supporting documents including an ROI are not included when the MHD application is filed, the application will be rejected. Rejected applications will include a note or comment explaining the reason for the rejection. Notations

such as “see 1368 report” or “judicial notice court files” will not be accepted. All supporting documents must be submitted with the application.

6. **When are the hearings on the application for MHD?** When you file your MHD application, you will be given a hearing date on the next available Thursday MHD petition calendar at 1:30. Only contested hearings are scheduled for the last Thursday of each month in Department 13.
7. **What if the MHD applicant does not have mental health providers?** If the MHD applicant does not have a psychiatrist and a therapist in place at the time the MHD application is filed, the applicant should seek out mental health providers immediately. Having mental health providers already in place significantly expedites the MHD process if your client is ultimately found suitable for MHD.
8. **What if the MHD applicant does not have health insurance?** If the MHD applicant does not have private health insurance, MediCal, or MH providers in place at the time their MHD application is filed, they should immediately contact the Sonoma County Behavioral Health Access Line to be assessed for services. Note: It usually takes up to two months to get an appointment with Access.

County of Sonoma Behavioral Health Access Line

Available 24 Hours a Day, 7 Days a Week

Phone: (707) 565-6900

Toll Free: (800) 870-8786

<https://sonomacounty.gov/health-and-human-services/health-services/divisions/behavioral-health/services/accessing-mental-health-services>

9. **What happens after the MHD application is filed?** After the MHD application is filed, the applicant will appear in court on the date set by the clerk’s office. At the initial hearing, the court will have already reviewed the application and supporting documents to determine whether the applicant has a qualifying diagnosis and is eligible for MHD under the initial criteria set forth in Penal Code §1001.36. If the prosecution objects to initial eligibility, a contested hearing may be set.
10. **What happens if the applicant meets the initial eligibility criteria for MHD?** If the MHD applicant has a qualifying diagnosis, nexus is presumed, and the applicant will be referred to SCBH for a suitability assessment. The queue for a suitability assessment is lengthy, sometimes taking up to three months to get an appointment. **It is very important that the MHD applicant calls SCBH to schedule an appointment immediately after the finding of eligibility, and that they do not miss the appointment.** If the appointment is missed, it is not a guarantee that the

MHD applicant will be re-referred to SCBH. If a person is re-referred after a missed appointment, it may likely take up to another three months to be assessed. An appointment for a suitability assessment may be scheduled by contacting:

Sonoma County Behavioral Health (SCBH)
Sharilyn Shaeffer, LMFT
Health Program Manager
(707) 565-4966

11. **What happens after the applicant is referred for a suitability assessment?** Once the MHD applicant is referred to SCBH for a suitability assessment, they will be given a court date, up to three months in the future. In the meantime, the criminal case may continue on a parallel track in the trial department. During this time period, the applicant should get mental health providers if there aren't any providers already in place. If the applicant already has treatment providers established, they should continue to attend their mental health treatment appointments.
12. **Does SCBH need any information to conduct a suitability assessment?** Yes, as part of the SCBH licensed clinician's assessment, they will interview the applicant and review any documentation provided to them. As a matter of course:
 - a. The DA's office provides SCBH with the complaint, and crime reports for the assessment.
 - b. The Court will provide the current 1368/1370/1372 report, if any, for the assessment.
 - c. The applicant must serve a copy of the MHD application on SCBH.
 - d. Please note – as part of the assessment, the licensed clinician will conduct a clinical assessment and draft a proposed treatment plan based on that assessment. **You will have 10 calendar days to provide any and all information you want SCBH to consider during the assessment. Please provide documentation to: Forensic-BH@sonoma-county.org**
13. **What happens after the suitability assessment is conducted?** When the MHD applicant returns to court, the suitability assessment will have been reviewed by the court and counsel in advance. If the court and counsel agree that the individual is both eligible and suitable for MHD, the next step is for the MHD applicant to provide the court with Agreements to Treat from their mental health providers (psychiatrist and therapist). If the parties disagree about suitability, the case will be set for a contested hearing.
14. **Why do I have to submit Agreements to Treat before MHD is granted?** Applicants will not be accepted into MHD court until the court has received Agreements to Treat from all treatment providers. This process ensures that the individual has treatment providers in place who will provide progress reports to the court regarding the individual's treatment. MHD will not be granted until agreements to treat have been received by the court directly from the treatment providers.

The process for Kaiser patients differs slightly. Additionally, if your client is found suitable for MHD, they may be asked to complete a **firearms relinquishment/prohibition form** and given **restitution** information.

15. **What if the parties disagree about suitability?** If the parties disagree about suitability, a contested hearing may be set. Contested hearings are conducted on the last Thursday of the month at 1:30.

16. **What if the applicant's provider won't sign an agreement to treat?** If the MHD applicant is having difficulty obtaining Agreements to Treat from their treatment providers, please contact the court's treatment coordinators at: MHDReports@sonomacourt.org for additional support. You must first make a reasonable effort to obtain the Agreements *before* requesting assistance. When seeking assistance, provide:
 - a. The provider's name and direct contact information
 - b. A history of attempts to obtain the documentation, and
 - c. A signed Release of Information (ROI) including the provider's contact information if not already submitted.

17. **What happens once the agreements to treat are received?** Once the Agreements to Treat are received by the court, the **court order** will be completed by the applicant and their attorney. The court will review the court order and the individual treatment plan with the applicant and **grant MHD**.

18. **What happens when MHD is granted?** Once MHD is granted, future court dates will be set on the court's compliance/review calendar on Monday's at 1:30 p.m. in Department 13.

19. **What if the MHD applicant has been found IST?** If the MHD applicant has been found IST, you do not need to file a MHD application. Once the trial court has made an interest of justice (IOJ) finding, the case may be put directly onto D13's **Thursday** calendar from the trial department.