

4. Alternatives to detention

If your family member is awaiting sentencing, the court may consider alternatives to detention as a sentencing option. Sentencing options will depend on the charges your family member is facing, their history and other individual factors. Sometimes alternatives to detention are also available for people during the remand period who don't have adequate accommodation in the community.

You may be able to help your family member access alternatives to detention by encouraging them to talk to their solicitor or staff from Community Corrections (if a Sentencing Assessment Report has been requested by the court) and also by offering support such as accommodation. Think carefully about the kind of support you can offer, recognising the demands this may put on you and your family. Be aware also that there will be many circumstances in which there's nothing you can do to prevent your family member from receiving a sentence of detention.

If you're concerned that your family member won't be able to find out about alternatives to detention on their own, ask if you can be with your family member while they're interviewed or get their permission to make enquiries on their behalf.

Drug Court

The Drug Court (**see p.34**) offers people with serious drug problems an opportunity to break the drug-crime cycle by involving them in

programs that address their drug issues. In some circumstances people can live in the community while they participate in the Drug Court program instead of serving their sentence in prison, while other Drug Court participants (male) will be in prison in the Compulsory Drug Treatment Correctional Centre at Parklea (**see p.33**).

Participants who live in the community work with staff from CSNSW and NSW Health and must undertake tasks like attending counselling, education programs and participating in urine screening. Regular progress reports are provided to the court, and the court is advised of any breaches. Drug Court programs generally involve participants for 12 months or more. At the end of the program, participants receive a final sentence from the Drug Court that takes into account their original sentence and their progress in the Drug Court program.

For more information about the Drug Court, go to:

www.drugcourt.justice.nsw.gov.au

MERIT

What is MERIT?

MERIT is the Magistrates Early Referral into Treatment Program. It offers people an opportunity to volunteer to address drug problems as a condition of their bail. Progress in treatment is taken into consideration when the person receives their final sentence. Treatment may include detox, methadone or other medication, referral to residential rehab, counselling and support services.

Who is eligible for MERIT?

MERIT is for people who use illegal drugs and are facing charges at a Local Court, and whose charges don't involve significant violence or sexual assault. Participants need to be willing to participate in drug treatment.

What does MERIT mean for families?

MERIT assists drug users to get treatment. Facing court is sometimes the trigger for people to accept help for drug use when they haven't been willing before. This can be a big relief for families. Participants won't be punished for not completing their MERIT program, but the magistrate may take success into account when sentencing. You may find it stressful if you're aware that your family member is not following through on their program requirements.

Remember that you can support and encourage your family member, but you can't take responsibility for making them succeed.

To find out more about MERIT ask at the Local Court or talk to your family member's solicitor.

Court orders and conditions that don't involve detention

Fines

For minor traffic offences and less serious criminal offences, the Magistrate can impose fines. Usually the law states the maximum fine that can apply to an offence. Fines need to be paid within 28 days; it's possible for an extension or payment by instalments to be arranged.

Unpaid fines will be referred to State Debt Recovery (SDR). If fines remain unpaid, arrest warrants can be issued. If you want to talk to SDR about your family member's outstanding fines, you'll need them to phone SDR to give permission, or send a letter.

Conditional Release Orders (CRO)

A CRO may be imposed with or without conviction for up to 2 years. It may or may not be supervised by a Community Corrections Officer and includes conditions not to commit any offences and to appear before the court if requested.

Community Correction Orders (CCO)

CCOs come with a criminal conviction and can last up to three years.

CCOs may or may not be supervised by a Community Corrections Officer and includes conditions not to commit any offences and to appear before the court if required.

Intensive Correction Orders (ICO)

ICOs are an alternative to a sentence of imprisonment. An ICO may be made when a court is satisfied that no sentence other than full time imprisonment is appropriate and that the sentence is likely to be for a period of two years or less. ICOs are designed to reduce an offender's risk of reoffending through the provision of tailored interventions and monitoring in the community. Some conditions that may be imposed on an ICO include home detention, community service work and programs.

What is home detention?

Home detention is a condition of an ICO where an offender can serve their sentence at home under intensive supervision. Offenders with a home detention condition are monitored through electronic bracelets, visits from supervising officers, and drug and alcohol testing.



Who is eligible for home detention?

Offenders need to be sentenced to a term of 18 months or less. Offenders can't get home detention if they're on remand (**see p.11**).

What does home detention mean for families?

Home detention has many benefits for families. It ensures that families can stay together and parents can continue to care for their children. It's also possible for an offender to attend pre-approved study (e.g. TAFE) or work while on home detention. It means families are spared the pressure of worrying about what's happening to an incarcerated family member. It also relieves them of the pressure of visiting a family member who may be in a prison a long way from home.

Home detention can have downsides for families as well. They may feel obliged to have the offender at home to keep them out of prison, even if they would

otherwise want them to leave the home. Relationships can be stressed if families feel they have to put pressure on the offender to keep to the conditions of their order. And everyone may be affected by visits and telephone calls from Community Corrections staff which can come at any time to check that the offender is at home.

Community Service work conditions

As a condition of an ICO or CCO, the Magistrate or Judge can sentence people to do community service work. This means that the person will be required to complete a number of community work hours specified by the court.

Need help?

Encourage your family member to discuss alternatives with their legal representative.

Drug Court

The Drug Court of NSW is a specialist court that sits in Parramatta, Toronto and Sydney.

The Drug Court accepts referrals from the Local and District Courts for offenders who are dependent on drugs, and who are eligible for a Drug Court Program.

For more information go to:

www.drugcourt.justice.nsw.gov.au