

**Office of the District Attorney
Flynn D. Broady, Jr.
District Attorney
Cobb Judicial Circuit**

Application Information

Application for acceptance into the Pretrial Diversion Program must be made pursuant to the instructions and completed applications should be directed to the Diversion Coordinator. Information regarding the application process, participation and program requirements are outlined below. The Diversion Coordinator will be able to answer additional questions.

There is a \$200.00 administrative fee to participate in the program unless waived for good cause by the Diversion Coordinator. In addition, there may be restitution as well as court appointed attorney fees assessed. Actual financial obligations will be determined by the Diversion Coordinator. Participants are expected to pay all program fees, attorney fees, and restitution at the program orientation if possible. However, based on individual circumstances, it may be possible to allow program fees and restitution to be paid in installments over the course of the program. Payment arrangements must be made at orientation with the Diversion Coordinator. In addition program fees and restitution must be paid prior to dismissal of the charges. **All payments are to be paid by certified check, money order, or attorney's check made out to Cobb County Clerk of Superior Court.** The Diversion Coordinator cannot accept cash. Each participant should keep a copy of all payments for their records.

All participants, whether charged with drug-related offenses or not, may be required to submit to drug screens during the program. Whether or not drug screens will be required is based on each participant's individual program. Participants with drug charges will be subject to random drug screens as requested by the Division Coordinator. The cost of each screen is \$25.00 or \$35.00 depending on the type of screen required. Participants will be required to present a proof of identity at the time of screening. Identification may include a government issued identification or copy of book in photo and paperwork where it clearly identifies participant.

Drug screen for this program generally will take place at the Cobb County Drug Treatment Court lab. Participants must be willing and able to appear at this lab in the courthouse complex whenever instructed to do so, subject to the requirements described above. Participants residing outside of the metro Atlanta area may request written permission to test at a certified drug testing lab near their residences. However, such accommodation and testing, must be agreed to in writing by the Diversion Coordinator at the time of orientation.

A charge of Driving Under the Influence cannot be dismissed by the completion of this program. Remaining charges on the same Indictment or Accusation will not be dismissed until the Driving Under the Influence charge has been resolved by agreement. If there is no agreement as to the resolution of the Driving Under the Influence charge (i.e. a negotiated plea, reduction, or dismissal) then all charges will be referred to the assigned court for further prosecution. In no event will the state agree to litigate the Driving Under the Influence charge while dismissing the remaining charges.

The documents included in this packet may be amended or supplemented at any time at the discretion of the District Attorney's Office, therefore a new packet must be obtained for each defendant. **Copies of program materials should not be kept for future use.**

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Application Instructions

- 1) Complete and sign all documents included in this packet. If the case has been indicted or accused, you **must include the Indictment or Accusation number on each applicable document**. If the case has not been indicted or accused, **you must include the warrant number on each document**. Do not include any other identifying numbers, such as the police case number.
- 2) **If the case is indicted or accused, file the “Petition for Pretrial Diversion” form (2 pages only) with the Clerk of Superior Court and include a stamped filed copy with the packet**. If there is no indictment or accusation, the original petition should be submitted to the Diversion Coordinator with the application packet.
- 3) **Do not file the remaining application original documents with the court clerk but deliver those original documents with the petition to the Diversion Coordinator. Do not include any payments with the application package.**
- 4) Defense counsel will be notified of the date and time of the defendant’s scheduled program orientation and of the amount of restitution and appointed attorney’s fees due, if any. It is the responsibility of the attorney to ensure that the defendant appears at the scheduled time.
- 5) The administrative fee of \$200.00 should be paid at the orientation if possible. Payments may only be paid by money order, cashier’s check, or attorney’s check made payable to the **Cobb County Clerk of Superior Court**.
- 6) Payment for restitution and court appointed attorney fees should be made at orientation if possible. Arrangements for payment of any applicable restitution or attorney’s fees must be made at orientation if needed. Court appointed attorney fees are generally \$300.00 unless reduced by the Diversion Coordinator based on individual needs. Payment should be paid by money order, cashier’s check or attorney’s check made payable to **Cobb County Clerk of Superior Court. Charges will not be dismissed until all fees and restitution are paid.**
- 7) The participant is required to provide his or her own interpreter, if necessary, at orientation and subsequent meetings. All documentation will need to be translated and completed prior to orientation.
- 8) Once completed, please keep a copy of these, materials for the defendant’s records. **Copies will not be provided at orientation.**

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Applicant Certification

(Please check each below. Do not file this application unless each of these can be checked truthfully)

- I understand that the “**Pretrial Diversion Program Participant Handbook**” can be found online at www.cobbda.com under the heading “**Accountability Courts and Pretrial** Diversion,” and that I should consult the handbook if I have any questions about this program.
- I should be prepared to pay the \$200.00 administrative fee on the date of my program orientation or be prepared to make payment arrangements at that time.
- I will be able to pay the required drug screening fee of either \$25.00 or \$35.00 at the time of each drug screening. I am willing to comply with drug screening directives when instructed to do so.
- I have discussed with my attorney whether restitution to the victim and appointed attorney’s fees will be required in my case. I will be prepared to submit payment for these required fees or agree to make arrangements for payment at orientation.
- I have a government issued identification or book in information with picture that clearly identifies me as the party accused.
- I have discussed with my doctor any prescription medications I take, and I understand that I may need to request certification from my doctor(s) regarding possible substitutions for medications that may cause positive drug screens.

By signing below, I certify that each of the above statements are true and correct. I understand that should any of these statements be found to be incorrect or inaccurate my application to enter this program will be denied.

Defendant

Date

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

THE STATE OF GEORGIA * CASE NO. _____

v. *
_____ *

Petition for Pretrial Diversion

Come now, _____, Defendant charged in the above styled case and shows the Court the following:

1.

The defendant is charged with the offense(s) of _____
_____.

2.

Defendant further shows he/she is _____ years of age and understands that participation in this program is voluntary.

3.

The defendant has been advised of the Cobb Judicial Circuit District Attorney's Pretrial Diversion Program and is able and willing to meet all criteria necessary to enter said program. The defendant has further been advised that upon satisfactorily completing the program an order of Nolle Prosequi will be entered or the charges otherwise dismissed, except a charge of driving under the influence of alcohol or drugs.

4.

The defendant understands that if he or she is not accepted into the program or should he or she fails to complete the program requirements, this case will be returned to the traditional criminal justice system for prosecution.

5.

The Defendant has been advised of his or her constitutional rights by the undersigned attorney and understands that he or she is required to waive certain of these rights to enter the program.

6.

It is agreed that the defendant, if accepted into this program, may be required to pay any appointed attorney's fees assessed on the defendant's behalf by the Circuit Defender's Office. Court appointed attorney fees should not exceed \$300.00.

Attorney for Defendant
Georgia Bar No. _____

Attorney's name and address (please print):

Telephone No. (____) _____

Fax No. (____) _____

Email: _____

Retained _____

Appointed _____

**Office of the District Attorney
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THE STATE OF GEORGIA

*

CASE NO. _____

v.

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Diversion Agreement

I, _____, understand that the validity of this agreement is conditioned upon my eligibility for the Pretrial Diversion Program. If at any time after the execution of this agreement it is discovered that I am ineligible to participate in the program, I may be immediately terminated from the program. In consideration of the agreement by the State to allow participation in this program in lieu of traditional prosecution of my charges, I hereby agree the following: **(please initial the numbered conditions)**

1. _____ I will complete each aspect of the Pretrial Diversion Program which I understand generally involves a minimum time commitment of six months and may be longer. I understand that should I successfully complete the program an order of nolle prosequi will be entered or the charges against me will be dismissed except as noted elsewhere in this agreement.

2. _____ I understand that if I am charged with driving under the influence such a charge will not be dismissed due to my completion of this program, and no charges will be dismissed until that charge is resolved by my plea of guilty or the State's agreement to dismiss or reduce that charge. I understand that I will not be afforded the opportunity to contest the charge of driving under the influence in court following the dismissal of my felony charge(s), and that if the driving under the influence charge is not resolved by agreement then all charges will be returned to the traditional court system for further prosecution.

3. _____ I understand that I may withdraw from the program at any time, and should I withdraw, my case will be returned to its assigned court for traditional prosecution.

4. _____ I understand I will be informed of the individual requirements applicable to my case at the time of the program orientation, and that failure to abide by and complete those requirements within the allotted time may result in my termination from the program. I understand that if I do not agree to abide by any such condition, I may decline to participate in the program and my case will be returned for traditional prosecution.

5. _____ I understand that based upon an assessment of my individual case and application materials I may be required to complete counseling, mentoring or attend an education program. I will report to and cooperate fully with any counselor or agency to which I am referred and will pay all applicable fees.
6. _____ I will pay any applicable fees and any restitution required for the program, including appointed attorney's fees, or make arrangements for payment at the time of orientation. I understand that such payments, including administrative and drug screening fees are non-refundable.
7. _____ I will avoid persons and places of disreputable or harmful character, and I understand that knowingly associating with persons who violate the law may be grounds for termination from this program.
8. _____ I will not ingest any illegal substances, alcohol, or any uncertified prescription medications, including marijuana, CBD oil or related substance, which may cause a positive drug screen result during my participation in this program.
9. _____ I will submit to drug testing screens at my own expense at random intervals during the program, and will abide by each condition of the Drug Screen Policy executed along with this agreement. I understand that any positive drug or alcohol screen at any time during my participation in the program may result in termination from the program or additional program requirements.
10. _____ I will obtain and maintain at all times during program participation, identifying government issued identification or book in information and present such identification each time I report for drug screening.
11. _____ I will not substitute, alter or try in any way to change my body fluids for purposes of drug testing. I understand that doing so will result in immediate termination from this program.
12. _____ I will not violate the laws of any governmental unit during my participation in this program, and I understand that if I am charged with a new offense alleged to have occurred after my acceptance I may be terminated from this program.
13. _____ I will report to the Diversion Coordinator if I have been arrested or issued a citation for any criminal offense at any time following my arrest for the currently-charged offense. I understand that my failure to report any such arrest or citation may be grounds to deny acceptance into or may terminate my participation in the program. This does not include minor traffic offenses that do not involve drugs or alcohol.
14. _____ I will inform any law enforcement officer with whom I come in contact that I am a participant in the Pretrial Diversion Program.
15. _____ I will keep the Diversion Coordinator advised of my current address, telephone number, e-mail address, and employment or school status at all times, and will immediately report any change in status to said Coordinator.
16. _____ I will promptly notify the Diversion Coordinator in writing of any and all travel plans at least 7 days in advance of such travel.

17._____ I will complete the number of hours of community service work assigned to me during the program orientation at a charitable or non-profit organization approved by the Diversion Coordinator. I will complete such work at the rate, if any, specified by the Diversion Coordinator and provide verification of such work as required within the time allotted for completion of the program. I understand that failure to provide such verification on or before my scheduled date of completion may result in my termination from the program. I understand that forged community service hours will result in new felony charges levelled against me and that I will then be prosecuted to the fullest extent of the law.

18._____ I understand that termination or withdrawal from this program will result in my case being returned to its assigned court for prosecution. I also understand that if I am terminated or withdraw from the program any fees and restitution paid will not be refunded, and I may not have the opportunity to apply for re-admission.

I have read the above contract, or had it read to me, as well as translated if necessary, and I acknowledge that I understand all the terms and conditions. I have been given the opportunity to ask any questions which I may have. I hereby voluntarily enter into this agreement for the Pretrial Diversion Program.

Defendant

Date

Attorney for Defendant

(print name) _____

Date

District Attorney's Office Representative
(Diversion Coordinator or Assistant District Attorney)

Date

To Be Completed by Defense Council (please initial)

_____ I have explained the above information along with the other application materials to the defendant. I have explained the constitutional rights which the defendant hereby waives by submitting these materials.

_____ I believe that the defendant understands his or her constitutional rights and the consequences of entering this agreement.

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Cobb Judicial Circuit**

THE STATE OF GEORGIA * CASE NO. _____

v. * _____

_____ *

Participant Information

Date _____

Name _____ D.O.B. _____

Address _____
Street Apt# City State Zip

Marital Status _____ Spouse's Name _____

Military Veteran: yes or no Connected with the VA: yes or no

High School Diploma or GED: yes or no Last grade completed: _____

Email address: _____

Telephone No: (____) _____

Alternate telephone: (____) _____

Emergency Contact: _____
Name Relationship

Telephone (____) _____ Email address: _____

Employment or School

Employer/School _____

Address _____
Street Apt# City State Zip

Telephone (____) _____ Immediate Supervisor: _____

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THE STATE OF GEORGIA

*

CASE NO. _____

v.

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Drug Screen Policy

Every participant in the Pretrial Diversion Program regardless of the charged offense may be subject to being randomly tested for the use of illegal drugs and alcohol. Participants will be charged \$25.00 or \$35.00 per screen.

When notified to report, it will be the participant's responsibility to report to the Office of the District Attorney to receive the appropriate order and then to report to the Drug Treatment Court lab during business hours on the appointed day, and to produce a urine sample sufficient for testing. The testing fee must be submitted at the time of each screen, and the participant must provide identifying documentation.

Unless otherwise approved in advance by the Pretrial Diversion Coordinator, tests will be given at the Drug Treatment Court lab, which is in the basement of Building D, 30 Waddell Street, Marietta, Georgia. Participants may not drink alcohol or use any prescription medications that would cause a positive screen result. **Any positive test at any time during program participation may result in termination from the program or in additional program requirements.** The collection of all urine samples shall be observed by a qualified and trained lab employee of the same gender as the participant. Any sample which does not contain a sufficient volume of liquid for testing or which is diluted (that is, which contains a concentration of creatinine less than 20 mg/dl) will be deemed inadequate for testing, and that test may be treated as positive. Submission of an insufficient or diluted urine sample or failure to report when instructed may result in additional program requirements or termination from the program.

I, _____, have read the above policy or had it read to me. I agree to abide by each aspect of this policy as a condition of my participation in the Pretrial Diversion Program.

This the _____ day of _____, 20_____.

Defendant

Attorney

**Office of the District Attorney
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THE STATE OF GEORGIA

*

CASE NO. _____

v.

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*

Release and Waiver

I, _____, hereby authorize the release of such confidential information as may be necessary for the Diversion Coordinator to determine eligibility for the Pretrial Diversion Program. I agree to hold harmless, and relieve and release from any liability with regard to such information, the Diversion Coordinator and any other authorized representative of the District Attorney's Office.

I understand that the Pretrial Diversion Program is operated under the supervision of a sworn Assistant District Attorney, and that my acceptance into and participation in this program may require interaction with such person and other representatives of the District Attorney's Office without the presence of my attorney. I hereby expressly waive my right to have my attorney present during such interaction for the limited purpose of completing the program orientation, periodic status reports, and such other interaction as may be necessary to facilitate my participation in this program.

I also understand that any statements given by me as part of the Pretrial Diversion orientation process will not be used against me in later court proceedings should I voluntarily withdraw from the program.

This the _____ day of _____, 20____.

Defendant

Attorney for Defendant

**Office of the District Attorney
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THE STATE OF GEORGIA * CASE NO. _____

v. * _____

_____ *

Waiver of Rights

I, _____, understand that I am guaranteed by the United States and Georgia Constitutions the following rights:

- 1) A speedy trial;
- 2) A trial by jury;
- 3) The right to confront witnesses against me;
- 4) The right not to incriminate myself or give any information which could be used against me;
- 5) The right to call witnesses and present evidence on my own behalf, and to use the power and process of the court to compel the attendance of such witnesses and evidence;
- 6) The right to have an attorney represent me at all stages of the criminal process, and that as a condition of acceptance into, and participation in, the Pretrial Diversion Program, I hereby expressly waive or give up those rights.

I also understand that if I am not accepted in the program, or voluntarily withdraw from it, my waiver of the rights listed above will also be withdrawn. I also understand that any statements given by me as part of the Pretrial Diversion assessment process will not be used against me in later court proceedings should I voluntarily withdraw from the program.

This the _____ day of _____, 20_____.

Defendant

Attorney for Defendant

**Office of the District Attorney
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THE STATE OF GEORGIA

*

CASE NO. _____

v.

*

*

Waiver of Fourth Amendment Rights

I, _____, having requested to participate in the Pretrial Diversion Program, and in consideration of the agreement by the State to allow such participation in lieu of traditional prosecution of my charged offense(s), hereby state the following:

I understand that I have rights that protect me from unreasonable search and seizure.

I understand that these rights are guaranteed by the Fourth Amendment to the United States Constitution, as well as the Constitution of the State of Georgia.

I also understand that I can voluntarily give up these rights as part of an agreement to provide an alternative to traditional prosecution or incarceration.

As a condition of my participation in the Pretrial Diversion Program, I agree to the search of my person, property (including the contents of any electronic devices), place of residence, vehicle or personal effects at any time with or without a warrant, and with or without reasonable cause, when required by any law enforcement officer at any time during my participation in this program. I hereby give permission for such individuals to remove, forcibly if necessary, any locks or other hindrances which may prevent access to such places and property for the purpose of any such search. I consent to the use of any evidence seized during such a search in any prosecution that may arise from said search.

This the _____ day of _____, 20_____.

Defendant

Attorney for Defendant

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v. *
_____ *

Consent for Disclosure of Confidential Information

I, _____, having requested to participate in the Pretrial Diversion Program, hereby consent to communication, within or outside my presence, regarding my medical, psychological, or substance abuse history among any of the following individuals: any evaluator, counselor, physician, psychiatrist, or psychologist who participates in any counseling or treatment required as a condition of this program, any representative of the District Attorney’s Office designated by the District Attorney, and my attorney. I further consent to the release of the results of any drug testing required as a condition of this program to the individuals described above, and that such results may be made part of the public record of my case if such testing results in my termination from the program.

I understand and agree that the purpose and need for this disclosure is to assist the District Attorney’s Office in evaluating and determining my eligibility to participate in the Pretrial Diversion Program as well as my counseling needs, compliance and progress in accordance with program criteria. I hereby agree to hold such individuals harmless and relieve and release such individuals from all liability regarding any such communication.

Recipients of this information may not re-disclose the information except in connection with my counseling or treatment, or otherwise as permitted by federal law and rules. I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Pretrial Diversion Program, and/or a formal discontinuation of court proceedings regarding my case.

This the _____ day of _____, 20____.

Defendant

Attorney for Defendant