



PRETRIAL DIVERSION PROGRAM POLICY AND PROCEDURE MANUAL

Office of the District Attorney
Coweta Judicial Circuit

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COWETA JUDICIAL CIRCUIT

PRETRIAL DIVERSION PROGRAM

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PRETRIAL DIVERSION PROGRAM OVERVIEW

The Coweta Judicial Circuit Pretrial Diversion Program is established by the District Attorney's Office pursuant to O.C.G.A. §15-18-80 as an alternative to criminal prosecution for certain eligible defendants in Superior Court. This program not only provides eligible defendants a unique opportunity to avoid a felony conviction, it also provides a service to the community and helps make victims of crimes whole again.

Participation in the program is voluntary between the District Attorney's Office and the defendant and is initiated by the defendant by submitting a written application to the District Attorney's Office. The ultimate decision whether to accept a defendant into the pretrial diversion program rests solely with the District Attorney's Office in accordance with the guidelines described in the "Admissions Criteria" section below and pursuant to OCGA §15-18-80.

Eligible applicants who are approved for participation in the program will pay an administrative program fee and execute a written contractual agreement that sets forth the terms and conditions of the program that must be satisfied in order to have the defendant's charges dismissed. Participants will report to a program supervisor to document their compliance or noncompliance with the terms of the Pretrial Diversion Program contract.

A defendant's failure to successfully complete or fully comply with any term of the Pretrial Diversion Program contract shall result in termination from the program at the sole discretion of the District Attorney's Office. In that event, the defendant's criminal case would return to the normal criminal prosecution process. Any monies paid by the defendant during the course of their participation in the program are non-refundable and shall not be returned to the defendant under any circumstances. Additionally, in the event of termination from the program, any community service work performed, money paid, or other actions taken by the defendant while in the program may or may not be credited towards any final disposition of the defendant's criminal case at the discretion of the trial court judge.

However, upon successful completion of all of terms of the Pretrial Diversion Program contract, including making full restitution to any victims, the defendant's criminal case that is the subject of the program will be resolved in accordance with the agreed upon terms of the contract. Successful participants who are also eligible to have their arrest record restricted may apply for record restriction if the record restriction does not occur automatically.

The District Attorney's Office's hope is that successful participants of the Pretrial Diversion Program will take something positive from this experience and begin making better life choices going forward in order to lead a productive, crime-free life. In this way, everyone benefits – the defendant, any victim, and the community – all without the need of pursuing a formal criminal prosecution and conviction.

ADMISSION CRITERIA

Acceptance into the Pretrial Diversion Program is at the sole discretion of the District Attorney's Office. In accordance with OCGA §15-18-80(d), the Assistant District Attorney assigned to the defendant's case will assess the defendant for eligibility pursuant to the following considerations below. However, eligibility according to the minimum criteria below does not entitle one to be offered admission to the program. The assigned Assistant District Attorney will always consider the totality of the circumstances in making a determination of whether to admit a defendant into the program.

The Nature of the Charged Crime(s)

*No person charged with any of the following crimes shall be admitted into the program:

- Any offense for which the law provides a mandatory minimum sentence of incarceration or imprisonment that cannot be suspended, probated, or deferred
- any felony offense involving violence, a threat of violence, or any physical injuries to a victim
- any offense involving circumstances suggestive of a "hate crime"
- any offense involving criminal street gang activity
- any offense involving the possession of a firearm
- any felony sexual or sexually-related offense
- any offense of elder abuse or exploitation
- any offense involving a violation of public trust
- any fiduciary theft or theft(s) in an aggregate amount of over \$5000
- any offense involving over \$5000 in restitution
- an offense of burglary in the 1st degree
- an offense of influencing a witness
- an offense of perjury
- any offense of fleeing or attempting to elude
- any DUI offense
- any offense of trafficking controlled substances or people
- any drug offense involving an intent to distribute

Applicant's Prior Arrest Record

*No person shall be admitted into the program who has previously been convicted of or has entered a nolo plea to any offense listed in the previous section which would otherwise have disqualified the applicant were it a present charge, with the exception that a single prior DUI conviction shall not be disqualifying.

*No person shall be admitted into the program who has previously utilized First Offender, Conditional Discharge, or another Pretrial Diversion Program.

*No person with a prior felony conviction or a significant felony arrest history shall be admitted into the program.

*No person with a significant misdemeanor arrest history, a significant juvenile history, or a significant behavioral record from school shall be admitted into the program.

*No person currently on probation, or who was previously on probation at the time they committed their new offense, shall be admitted to or allowed to remain in the program.

*No person with a history of failing to appear for court shall be admitted into the program

The Notification and Response of the Victim

*In any case in which there is at least one victim, each victim shall be notified if the defendant applies for pretrial diversion. The victim shall be given the opportunity to express support or opposition for the defendant's admission into the program.

* No person shall be admitted to the program over the victim's objection except by approval of the District Attorney or the Chief Assistant District Attorney.

*The victim may request that conditions be placed on the defendant's participation in the program. For example, the victim may request that the defendant pay restitution for the benefit of the victim and to have no contact with them. Every effort shall be made to accommodate the victim's reasonable requests in this regard.

Additional Eligibility Considerations

*The Pretrial Diversion Program is only available to youthful offenders 30 years of age or younger at the time of the offense(s) charged.

*If restitution is owed, the participant must have the ability to pay the restitution amount in full within the time period agreed upon – typically within 6 months if not sooner.

*No person in need of inpatient treatment for drug or alcohol issues shall be admitted into the program.

*No person with mental health or other issues that would affect their ability to comply with the rules and conditions of pretrial diversion shall be admitted into the program.

APPLICATION AND ADMISSION PROCESS

Admission to the Coweta Judicial Circuit Pretrial Diversion Program shall be by written application of the defendant using the Pretrial Diversion Program Application form provided herein, with any necessary supporting documentation attached. Applications shall be emailed, mailed, or hand delivered to the District Attorney's Office in the county where the offense occurred. Please note that this program will first be available to eligible defendants in Coweta County. However, it is our intent to expand this program to other counties across the Circuit in the future.

Coweta County District Attorney's Office
Attn: Pretrial Diversion Program Application
72 Greenville Street
Newnan, GA 30263
Email: PTDCOWETADA@PACGA.ORG

Upon receipt of the Pretrial Diversion Program application, the assigned Assistant District Attorney will review the facts of the case, the defendant's application, and obtain feedback from any victims in order to make an initial determination concerning the defendant's eligibility and whether to tentatively accept Defendant into the program. If the assigned Assistant District Attorney determines defendant is ineligible for the program, or otherwise rejects the defendant's application, the defendant will be so notified, either directly or through their attorney if they are represented.

If the defendant is eligible for acceptance into the program, the Assistant District Attorney will prepare a tentative contractual agreement setting out the specific terms for the defendant's successful completion of the program. The Assistant District Attorney will also prepare a tentative consent order which, once signed by the parties and the assigned judge, would have the effect of placing the case on the trial court's dead docket pending the defendant's completion of the Pretrial Diversion Program.

A meeting will then be scheduled between the Assistant District Attorney, the tentatively accepted defendant, and the defendant's attorney if the defendant is represented. At this meeting the program rules and specific terms and conditions of the defendant's Pretrial Diversion Program contract and the accompanying waivers will be explained, and any questions concerning the defendant's

participation in the program will be answered. All terms of the Pretrial Diversion contract shall be in writing, and only the written terms of the agreement shall be enforceable. If all parties are in agreement with the terms of the Pretrial Diversion Program contract, the contract and any accompanying waivers or orders must be signed by the Assistant District Attorney, the defendant, and the defendant's attorney, if represented. During the meeting, the assigned Assistant District Attorney may request more information or additional supporting documentation from the defendant. At the conclusion of this meeting, and upon receipt of any additional supporting documentation requested, the assigned Assistant District Attorney will make a final determination of the terms of the contract and whether to accept the defendant into the program. If the defendant is not agreeable to the terms offered, the defendant may withdraw his or her application, and the case will continue its course as a traditional criminal prosecution in Superior Court.

As part of the defendant's admission to the Pretrial Diversion Program, a non-refundable administrative fee of up to \$1,000.00 shall become due at the time the Pretrial Diversion Program contract is signed. This administrative fee shall be paid to the Superior Court Clerk in the county where the underlying charges occurred, and the payment shall be made in the form required by that Superior Court Clerk's Office. This fee does not cover any other potential costs associated with the program, such as restitution payments, drug and alcohol testing, or counseling costs, which the participant would be responsible for separately from the administrative program fee. The assigned Assistant District Attorney shall also provide the defendant with a Payment Receipt that the defendant will fill out and take to the Superior Court Clerk's Office to file at the time payment of the administrative fee is made. The presence or absence of a filed Payment Receipt will be used to document compliance or non-compliance with the agreed upon payment terms of the Pretrial Diversion Program contract.

PROGRAM RULES AND EXPECTATIONS

Each participant in the Pretrial Diversion Program is expected to fully comply with all terms of the Pretrial Diversion Program contract. Failure to fully comply in any degree with the terms of the contract shall result in immediate termination from the program in the discretion of the assigned Assistant District Attorney. The Assistant District Attorney's decision to terminate a participant from the Pretrial Diversion Program is solely reviewable by the elected District Attorney or the Chief Assistant District Attorney at the request of the terminated participant.

To facilitate monitoring the participant's compliance, as well as to check in with the participant and their progress, every participant must have sufficient transportation to meet with and report to their Pretrial Diversion Program supervisor or the assigned Assistant District Attorney when requested and in the manner directed (for example, by telephone, video conference, or in person).

In addition to regularly reporting to their Pretrial Diversion Program supervisor, each participant must also attend a total of 4 group meetings throughout the 12 months of their time in the program. These group meetings will occur at the courthouse every 3 months, and it is the participant's responsibility to be aware of when their next meeting is. These group meetings will be conducted by both the assigned Assistant District Attorney and the Pretrial Diversion Program supervisor. The initial group meeting provides the participant with an orientation, while at the other meetings the participants will check in and receive feedback on their progress. Any issues that may have arisen will also be address at these meetings. A represented participant may bring their attorney with them to these group meetings, but that is not required. However, in order for each represented participant to be able to speak with the assigned Assistant District Attorney concerning their progress in the program, as part of the admission process each participant must agree to waive their attorney's presence for such communications that concern participation in the program.

While participating in the program, every participant is expected to be gainfully employed, to attend school, or to engage in other meaningful community activity beyond the required community

service. Each participant must be able to provide satisfactory proof of the same, including any requested contact information for verification purposes.

As was described in the previous section, in addition to the program's administrative fee, each participant will be responsible for paying any restitution owed, as well as the costs of any drug screens, counseling, classes, or other services required as a contractual condition of their participation in the Pretrial Diversion Program.

Community service and/or participation in a mentorship program will be a component of every Pretrial Diversion Program contract. A participant must obtain preapproval from their Pretrial Diversion Program supervisor for the type of community service they wish to perform and for any mentorship program they wish to partake in. Such preapproval must be obtained in writing. However, the Pretrial Diversion Program supervisor may provide you with a list of pre-approved organizations where each participant may perform Community Service or participate in a mentorship without needing to seek further preapproval. Any unapproved community service or unapproved mentorship participation will not counting towards the defendant's obligations under the Pretrial Diversion Program contract.

Participants are not permitted to leave the State of Georgia without prior approval of their program supervisor. Such preapproval shall be requested and approved of in writing.

Participants in the program must avoid excessively consuming alcohol or unlawfully consuming any non-prescribed controlled substance. Additionally, participants in the program may not knowingly associate with anyone excessively consuming alcohol or using illegal drugs, and may not knowingly associate with criminal street gang members or anyone engaged in any unlawful conduct.

FORMS AND TEMPLATES



COWETA JUDICIAL CIRCUIT

PRETRIAL DIVERSION PROGRAM APPLICATION

Date of Application: _____ County where offense occurred: _____
Case Number: _____ Date of Arrest: _____
ADA: _____ Defense Attorney: _____

APPLICANT INFORMATION

Applicant's Full Name: _____ Race/Gender: _____
DOB: _____ SSN: _____ County of Residence: _____
Current Residential Address: _____
Telephone number: _____
Email Address: _____

Secondary Contact Person (in case Applicant cannot be reached)

Their Name: _____
Their Relationship to You: _____
Their Phone Number: _____

Are you currently incarcerated? Y / N Where: _____

Are you currently on probation? Y / N

If so, for what, and where: _____

Current Employer's Name: _____

Current Employer's Address: _____

Current Employer's Telephone Number:

Your Immediate Supervisor's Name: _____

Have you ever participated in any pretrial diversion type program before? Y / N

-If so, when and for what charge(s)? _____

Have you previously resolved any charge with First Offender? Y / N

-If so, when and for what charge(s)? _____

Have you previously resolved any charge with Conditional Discharge? Y / N

-If so, when and for what charge(s)? _____

How many times have previously been *arrested*? _____

How many prior misdemeanor convictions (including nolo pleas) do you have? _____

How many prior felony convictions do you have? _____

Do you have any other pending criminal charges? Y / N

-If so, when and for what charge(s)? _____

Do you have a High School Diploma or GED? Y / N

Do you have the ability to maintain employment and earn income during your participation in the Pretrial Diversion Program? Y / N

-If any explanation to your response is necessary, you may provide it here:

Do you have sufficient transportation to report in person as directed to your Pretrial Diversion Program supervisor? Y / N

Do you have the financial ability to pay for the costs of participation in the Pretrial Diversion Program, including an administrative program fee of \$1000, associated program costs (such as any costs for drug screening, counseling, etc.), and any restitution owed (if any)? Y / N

-If any explanation to your response is necessary, you may provide it here and attach any supporting documentation with this application (such as your most recent tax return, recent pay stubs, recent bills, etc.):

Are you currently taking any prescribed medication? Y / N

-If so, what medications are you taking and for what?

Prescribed Medication	Reason for Medication

For District Attorney's Office Use only:

Does the case involve any victims? Y / N

Do any and all victims support pretrial diversion for this defendant? Y / N / Not Applicable
(If any victims do not, it requires approval from the District Attorney or Chief Assistant District Attorney to admit the defendant into the Pretrial Diversion Program)

Do any of the victims have any express wishes for the Pretrial Diversion Program contract? Y / N

If so, please include them here.

How much restitution is owed, if any, and to whom?



SAMPLE PRETRIAL DIVERSION CONTRACT

(Initial each of the terms below as indicated by the Assistant District Attorney, indicating your understanding and agreement to follow and be bound by them.)

CASE NUMBER:

DEFENDANT'S NAME:

OFFENSE(S):

DEFENSE ATTORNEY:

ASSISTANT DISTRICT ATTORNEY:

PRETRIAL DIVERSION PROGRAM SUPERVISOR:

_____	<p>1. I agree to pay an administrative fee of _____ for my participation in the Pretrial Diversion Program. I understand I must make this payment to the Coweta County Clerk of Superior Court and that I must fill out and file a Payment Receipt along with my payment(s).</p> <p>I certify that I am financially able to pay, and agree to timely pay this administrative fee:</p> <p>_____ in full within one business day of signing this contract; or</p> <p>_____ by making an initial payment \$150.00 within one business day of signing this contract and by paying the balance at a rate of _____ a month, due by the _____ of each month.</p>
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<p>_____</p>	<p>2. I agree to pay restitution in the total amount of _____ . I understand my restitution payment(s) must be made to the Coweta County Clerk of Superior Court and that I must fill out and file a Payment Receipt along with my payment(s).</p> <p>I certify that I am financially able to pay, and agree to timely pay this restitution:</p> <p>_____ in full within one month of signing this contract; or</p> <p>_____ at a rate of _____ a month, due by the _____ of each month.</p>
<p>_____</p>	<p>3. I have read, understand, and agree to abide by the Coweta Judicial Circuit Pretrial Diversion Program Policy and Procedure Manual.</p>
<p>_____</p>	<p>4. All conditions of my bond in this case are incorporated into this contract. I will not violate the laws of any governmental unit or any condition of bond associated with this case and will report any arrest or violation within 24 hours to my Pretrial Diversion Program supervisor.</p>
<p>_____</p>	<p>5. I will submit to and complete a clinical evaluation for ___ Drugs and Alcohol // ___ Mental Health at a provider preapproved by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney, and I will successfully complete any and all recommendations for intervention or treatment. I further understand that I am responsible for any associated costs with the evaluation and treatment.</p>
<p>_____</p>	<p>6. I will complete the following course of counseling or instruction at a provider preapproved by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney, and I will pay any associated costs for:</p> <p>___ Anger Management,</p> <p>___ Theft/Shoplifter’s class,</p> <p>___ Other:</p>

_____	7. I will not excessively consume alcohol or use illegal drugs, and I will immediately submit to any and all drug screens requested of me by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney.
_____	8. I am prepared to pay the costs associated with any requested drug screens.
_____	9. I will complete _____ hours of community service at a non-profit organization preapproved by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney at a minimum rate of _____ hours per month.
_____	10. I will participate in _____ hours of a mentorship program at organization preapproved by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney at a minimum rate of _____ hours per month.
_____	11. I will stay away from the following persons and/or places:
_____	12. I understand that no money I pay as part of my participation in the Pretrial Diversion Program is refundable, even in the event of my termination from the program.
_____	13. If I have not previously obtained a High School diploma or GED, I will work on doing so while in this program. Within 9 months of today's date (by _____), I will actually take the GED exam and provide proof of the same. I understand I am responsible for paying for the costs of any test preparation materials and for the costs of taking the exam (approximately \$160). On average, studying for and successfully passing the GED exam takes 3 months.

_____	14. While participating in this program, I will be gainfully employed, will attend school, or will otherwise engage in meaningful community activity in a manner preapproved by my Pretrial Diversion Program supervisor or assigned Assistant District Attorney, and will provide proof of the same.
_____	15. I will initially report in person to my Pretrial Diversion Program supervisor at 10 Olive Street, Newnan, Georgia 30263, this upcoming Tuesday, _____, between 9am and 11am.
_____	16. I will report to my Pretrial Diversion Program supervisor or the assigned Assistant District Attorney whenever directed to do so and in the manner directed. I understand that if I am represented by an attorney, my attorney may accompany me to any of these meetings if my attorney is available and willing to come. If I am represented by an attorney, I understand I cannot miss any meetings just because my attorney is unavailable.
_____	17. I will always ensure that my Pretrial Diversion Program supervisor and the assigned Assistant District Attorney has my most current contact information (address, phone number, and email address) within 24 hours of any changes.
_____	18. Any time my Pretrial Diversion Program supervisor or assigned Assistant District Attorney unsuccessfully attempts to make contact with me, I will immediately contact my supervisor back. I understand my Pretrial Diversion Program supervisor must be able to successfully contact me at all times.
_____	19. I understand I may not leave the State of Georgia without written permission from my Pretrial Diversion Program supervisor.
_____	20. In addition to this contract, I have read, understand, and voluntarily agree to sign and be bound by the following waivers and consents in order to facilitate the supervision of my participation and progress in the Pretrial Diversion Program. -Waiver of Attorney’s Presence -Waiver of Speedy Trial -Fourth Amendment Waiver -Consent for Disclosure of Confidential Information

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

* CASE NUMBER:

v.

*

*

_____,

*

*

DEFENDANT

*

WAIVER OF ATTORNEY’S PRESENCE

For the duration of my participation in the Pretrial Diversion Program, I knowingly and voluntarily waive my right to have an attorney present for any communications between myself and the assigned Assistant District Attorney monitoring my progress, which are related to supervising my participation in the Pretrial Diversion Program. I understand this waiver will last only for the duration of my participation in the Pretrial Diversion Program and will terminate either upon my successful completion of the program or my termination from it.

This the _____ day of _____, _____.

Defendant

Attorney for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

* CASE NUMBER:

*

v.

*

_____ ,

*

DEFENDANT

*

*

WAIVER OF SPEEDY TRIAL

Given my participation in the Pretrial Diversion Program will take 12 months to complete, I knowingly and voluntarily waive my right to a Speedy Trial guaranteed under the United States and Georgia Constitutions. I further understand this waiver will remain in effect in the event I am terminated from the Pretrial Diversion Program.

This the _____ day of _____, _____.

Defendant

Attorney for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

* CASE NUMBER:

*

v.

*

_____,

*

DEFENDANT

*

*

FOURTH AMENDMENT WAIVER

For the duration of my participation in the Pretrial Diversion Program, I knowingly and voluntarily waive my rights concerning searches and seizures guaranteed by the Georgia Constitution and the Fourth Amendment of the United States Constitution, to the extent that I consent to allowing any law enforcement officer to search my person, property, place of residence, vehicle, or personal effects at any time with or without a warrant, in furtherance of supervising my participation in the Pretrial Diversion Program or whenever law enforcement has reasonable cause to believe evidence of illegal activity will be found from the search. I further consent to the use of any evidence seized during such a search in any prosecution that may arise as a result.

This the _____ day of _____, _____.

Defendant

Attorney for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

* CASE NUMBER:

v.

*

*

_____,

*

*

DEFENDANT

*

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

For the duration of my participation in the Pretrial Diversion Program, and to facilitate my participation in and the supervision of the same, I knowingly and voluntarily consent to the release of any information and records regarding my medical, psychological, or substance abuse history among any of the following individuals: any evaluator or counselor, physician, psychiatrist, or psychologist who participates in any counseling or treatment required as a condition of my participation in the Pretrial Diversion Program, any representative of the District Attorney's Office, 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. If any providers require that I sign any further releases to effectuate this waiver, I agree to promptly sign and agree to such releases.

This the _____ day of _____, _____.

Defendant

Attorney for Defendant



Pretrial Diversion Program Travel Request Form

Participant's Name: _____ Date: _____

Address: _____

Phone Number: _____ Form of Travel: _____

Departure Day/Date/Time: _____

Return Day/Date/Time: _____

Court appointments/group meetings/check-in that will be missed: _____

Destination (please be as specific as possible): _____

Travel Purpose/Reason for Travel Request: _____

Persons traveling with you: _____

**All requests should be submitted to your Pretrial Diversion Program Supervisor
no less than 2 weeks prior to the anticipated departure date.**

.....
(This section is to be completed by the Pretrial Diversion Program Supervisor)

Request Received by: _____ Date: _____

This Travel Request is ___ APPROVED ___ DENIED

Comments or Stipulations:



PRETRIAL DIVERSION PROGRAM

PAYMENT RECEIPT

(Payment must be delivered to the Superior Court Clerk's Office)

TODAY'S DATE:

DEFENDANT'S NAME:

CASE NO.:

PAYMENT AMOUNT:

FORM OF PAYMENT (circle one):

MONEY ORDER

CASHIER'S CHECK

PURPOSE OF PAYMENT (circle one):

PRETRIAL DIVERSION PROGRAM FEE

(Make payable to "Superior Court Clerk")

RESTITUTION PAYMENT

(Make payable to "Superior Court Clerk")

PAYMENT RECEIVED BY:

SIGNATURE

PRINTED NAME
(DEPUTY CLERK)