

# **PRE-TRIAL DIVERSION PROGRAM APPLICATION PACKET SIXTEENTH CIRCUIT COURT DISTRICT STATE OF MISSISSIPPI**

(REVISED DECEMBER 6, 2018)

This packet contains all directions, forms, and legal documents pertaining to the Pre-Trial Diversion Program for the Sixteenth Circuit Court District of the State of Mississippi.

## **SECTION I** **DIRECTIONS FOR PLACING A DEFENDANT IN THE PRE-TRIAL DIVERSION PROGRAM**

### **I. Determine eligibility.**

Defendants charged with the following crimes are eligible for acceptance into the Pre-Trial Diversion Program provided they have no significant history of prior delinquency or criminal history.

- Felony Bad Check False Pretense (all restitution must be paid IN FULL to the DA's Worthless Check Unit before acceptance into the program — not eligible for partial restitution payments)
- Possession of Schedule I & II: 0. 1g/2du — 2g/10du
- Possession of Marijuana: 30g — 250g
- Possession of Schedule 111, IV, & V: 50g/100du 150g/500du
- All Property Crimes (excluding burglary of a Dwelling or Shed and Shoplifting) with restitution up to \$3,000.000 (\$1,000-\$5,000: 1-5 MDOC) o Defendant must pay at least 20% of restitution up front. If full restitution is paid up front, they will complete the regular one-year program. If partial restitution is made, the program may be required longer than one year (until full restitution is made).
- Prescription Forgery
- Credit Card Fraud
- Fraudulent Use of ID
- Dog Fighting
- Home Repair Fraud
- Non-Violent Conspiracy
- Taking a Motor Vehicle
- Burglary of Automobile (up to 3 counts)
- Cyber Stalking
- Posting Injurious Message
- Hindering Prosecution
- Tampering with a Witness
- Violation of Restraining Order
- Simple Assault
- Identity Theft
- Driving in a Reckless Manner

### **2. Have a Pre-Sentence Investigation run on your client by MDOC Officer.**

3. Take the Pre-Sentence Investigation to the Assistant District Attorney handling the case for approval into the program.
4. Fill out the following forms (included in this packet) with your client:
  - a. Application for Acceptance
  - b. Pre-Trial Diversion Agreement
  - c. Waiver of Rights
  - d. Authorization to Release Confidential Information
  - e. Order Moving Case to Inactive Files
5. Bring all paper work to the Assistant District Attorney handling the case.
6. A date will be provided for the first meeting with the Pre-Trial Diversion Coordinator. It is the obligation of the Defendant or their attorney to call the Pre Trial Coordinator prior to this date to be assigned a time of intake on that date. This meeting will take approximately one hour and will include an assessment to determine what goals the Defendant will be required to meet to complete the Pre Trial Program. These may include obtaining regular employment, maintaining sobriety, receiving outpatient mental health services, or completing a GED or vocational program. The Defendant must bring \$200 for initial payment and this must be in the form of certified check or money order.

Pre-Trial Director: Dayton Brasfield, MS, PLPC  
662-329-5912

Columbus DA Office (Intakes as scheduled by contacting Dayton Brasfield)  
105 5th Street North, 2nd Floor  
Columbus MS 39701  
662-329-5911

Starkville DA Office (Monthly meetings on Wednesday as scheduled in advance)  
108 West Main Street  
Starkville MS 39759  
662-324-3251

**SECTION II**  
**DIRECTIONS FOR PLACING A DEFENDANT IN THE  
PRE-TRIAL DIVERSION PROGRAM**

Name: \_\_\_\_\_

Cause Number: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Home Phone Number: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_ DOB: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Eye Color: \_\_\_\_\_

Hair Color: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Driver's License Number: \_\_\_\_\_

Driver's License State of Issue: \_\_\_\_\_

I have been indicted in the Circuit Court of \_\_\_\_\_ County, Mississippi in the case number \_\_\_\_\_ for the crime of \_\_\_\_\_ .

I am represented by the Honorable \_\_\_\_\_ , Attorney, who address is \_\_\_\_\_ .

I have not been previously accepted into a diversion program, \_\_\_\_\_ (Defendant's Initial)

I am not charged with a crime of violence including, but not limited to, Murder, Aggravated Assault, Rape, Armed Robbery, Manslaughter, or Burglary of Dwelling. \_\_\_\_\_ (Defendant's Initial)

**CRIMINAL HISTORY**

<u>Date of Arrest:</u>	<u>Charge:</u>	<u>City/County:</u>	<u>Disposition:</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

**EDUCATIONAL BACKGROUND**

Highest Level of Education Completed and Year: \_\_\_\_\_

**EMPLOYMENT**

Current Employed?    YES                      NO

If yes, where? \_\_\_\_\_

**FAMILY**

Father's name and phone number: \_\_\_\_\_

Mother's name and phone number: \_\_\_\_\_

Sibling's name and phone number: \_\_\_\_\_

\_\_\_\_\_

Marital/ Relationship Status: \_\_\_\_\_

Spouse/Significant Other (address and phone number): \_\_\_\_\_

\_\_\_\_\_

Children/Legal Dependents (include age): \_\_\_\_\_

**MEDICAL HISTORY**

List of problems, treatments, and current medications: \_\_\_\_\_

\_\_\_\_\_

Are you currently or have you ever been in psychiatric/psychological treatment or counseling?

YES or NO

Is yes, what issue is being treated and at what agency did you receive treatment?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SUBSTANCE USE**

Are you currently or have you recently used any of the following drugs? (check all that apply)

- |                                 |                                       |                                    |  |
|---------------------------------|---------------------------------------|------------------------------------|--|
| <input type="checkbox"/> None   | <input type="checkbox"/> Cocaine      | <input type="checkbox"/> Marijuana | <input type="checkbox"/> Amphetamines  |
| <input type="checkbox"/> Heroin | <input type="checkbox"/> Barbiturates | <input type="checkbox"/> Alcohol   | <input type="checkbox"/> Others – List |

\_\_\_\_\_

If you checked any of the substances above, please indicate frequency of use and last time used:

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Do you have any past history of using any of the following drugs? (check all that apply)

None                       Cocaine                       Marijuana                       Amphetamines  
 Heroin                       Barbiturates                       Alcohol                       Others – List

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Have you ever been treated for drug or alcohol use?     Yes                       No

If yes, please provide the following information:

Treatment Date(s) and Location(s): \_\_\_\_\_

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Problem Treated:     Drugs                       Alcohol

If for drugs, please specify drug use: \_\_\_\_\_

Type of Treatment:     Inpatient                       Outpatient                       Other

Did you complete treatment?     Yes                       No

Any additional information:

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I hereby waive my right to a speedy trial as guaranteed by the United States Constitution, from any other State of the United States or any other Country. I further agree not to contest any request for my return to said County, State of Mississippi.

I hereby agree to obey and abide by any and all conditions, rules, and regulations prescribed by the District Attorney's Office while in the Pre-Trial Diversion Program, if accepted.

I further agree and understand that if accepted into the Pre-Trial Diversion Program, if I should violate the conditions of the Agreement: (a) the District Attorney will terminate my participation in the program; (b) the waiver pursuant to Section 99-15-115, Mississippi Code 1972, Annotated, as amended, concerning the right to a speedy trial and the tolling of the period of limitation established by statutes and/or rules of Court shall be void on the date I am removed from the program for the violation, and the prosecution of pending criminal charges against me shall resume by the District Attorney. I hereby affirm that the information provided above is true and correct. Further, I understand and agree to abide by the conditions set forth, if accepted into the Pre-Trial Diversion Program.

This is \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

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DEFENDANT'S ATTORNEY

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DEFENDANT'S SIGNATURE

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSISSIPPI

\_\_\_\_\_ TERM, 20\_\_\_\_\_

STATE OF MISSISSIPPI

CAUSE NO. \_\_\_\_\_

VERSUS

\_\_\_\_\_

**SECTION III**

**WAIVER OF RIGHTS**

As a condition of the Defendant's acceptance into the Pre-Trial Diversion Program, the Defendant hereby waives any and all rights to a speedy trial under the Constitution and laws of the United States and/or the State of Mississippi; and the Defendant agrees that all future time which passes prior to the bringing of this Defendant to trial shall be charged to the Defendant, and not to the State. The Defendant further agrees hereby that the Defendant's bond will be revoked and the charges pending against the Defendant will be reinstated in the event the Defendant violates any of the terms of the Pre-Trial Diversion Program.

SO AGREE this is \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
DEFNDANT

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

\_\_\_\_\_  
PRE-TRIAL DIVERSION PROGRAM REPRESENTATIVE



**SECTION IV**

**AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION**

I, \_\_\_\_\_, the undersigned, hereby authorize the Director of Records to release any and all confidential information in its records, possession, or knowledge, of whatever nature may now exist or come to exist, on an unrestricted communications basis to the District Attorney's Office of the Sixteenth Circuit Court District of the State of Mississippi.

This information, which I now authorize for release, is to be used in connection with my participation in the Pre-Trial Diversion Program, which has been made a condition of my Pre-Trial Diversion Program. I understand the District Attorney's Office may use the information hereby obtained only in connection with its official duties, including total or partial disclosure of such to the Circuit Court.

This consent will terminate at the expiration of my period of Pre-Trial Diversion participation or at such time as the District Attorney acts to revoke or terminate Pre-Trial Diversion.

\_\_\_\_\_  
DEFNDANT

\_\_\_\_\_  
ATTORNEY FOR DEFEDNANT

\_\_\_\_\_  
PRE-TRIAL DIVERSION PROGRAM REPRESENTATIVE

\_\_\_\_\_  
DATE SIGNED

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSISSIPPI  
\_\_\_\_\_ TERM, 20\_\_\_\_\_

STATE OF MISSISSIPPI

CAUSE NO. \_\_\_\_\_

VERSUS

\_\_\_\_\_

**SECTION V**

**PRE-TRIAL DIVERSION AGREEMENT**

The Defendant, \_\_\_\_\_ having been indicted for the crime of \_\_\_\_\_ and having made written application for acceptance into the Pre-Trial Diversion Program of the Sixteenth Circuit Court district of the State of Mississippi and the District Attorney's Office having considered said application finds as follows:

- a) The Defendant is eighteen (18) years of age or older;
- b) There is substantial likelihood that justice will be served if the Defendant is placed in a diversion program;
- c) It is determined that the needs of the Defendant and the State can better be met outside the traditional criminal justice process;
- d) It is apparent that the Defendant poses no threat of violence to the community
- e) It appears that the Defendant is unlikely to be involved in further criminal activity
- f) The Defendant has no significant history of prior delinquency, criminal activity, or a prior felony conviction.

IT IS THEREFORE ORDERED that the Defendant is hereby accepted into the Pre-Trial Diversion Program for a period not to exceed 36 months, under the following terms and conditions:

- 1) Defendant shall not violate any federal, state, or local laws and shall report within twenty four hours to the District Attorney's Office of any arrest or if questioned by law enforcement officers;

- 2) Defendant shall refrain entirely from the use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotics or other controlled substance or any paraphernalia related to such substance, except as prescribed by a physician;
- 3) Defendant shall not be present in or visit places where controlled substances are illegally sold, used, distributed, or any other place deemed inappropriate by the District Attorney;
- 4) Defendant shall refrain from associating with any person engaged in criminal activity and shall refrain from associating with any person convicted of a felony crime unless granted permission to do so by the District Attorney's Office;
- 5) Defendant shall support his/her legal dependents, if any, and meet other family responsibilities;
- 6) Defendant shall work regularly at a lawful occupation unless enrolled in school, training, on medical disability, or for other acceptable reasons;
- 7) Defendant shall remain within the State of Mississippi unless authorized to leave on proper application to the District Attorney's Office;
- 8) Defendant agrees to participate in a program approved by the District Attorney's Office for substance abuse if deemed necessary, which program may include testing to determine whether the defendant has reverted to the use of drugs and alcohol. Defendant may be required to pay all costs in connection with said test and/or treatment;
- 9) Defendant agrees to participate in a counseling program approved by the District Attorney's Office if deemed necessary. Defendant may be required to pay all costs in connection with treatment;
- 10) Defendant agrees to participate in a program approved by the District Attorney's Office for financial management if deemed necessary, which program may prohibit the defendant from incurring new credit charges or opening additional lines of credit unless in compliance with the payment schedule;

- 11) Defendant agrees to participate in other educational, employment, or therapeutic programs approved by the District Attorney's Office if deemed necessary;
- 12) Defendant does hereby waive extradition to the State of Mississippi from any jurisdiction in or outside the United States where he/she may be found and also agrees not to contest any effort by any jurisdiction to return him/her to the State of Mississippi;
- 13) Defendant does hereby waive any right to a speedy trial as guaranteed by the United States Constitution, the Constitution of the State of Mississippi, and all Statutes of the State of Mississippi pertaining to any right to a speedy trial;
- 14) Defendant agrees to the tolling of all periods of limitation of prosecution established by Statutes or Rules of the Court;
- 15) Defendant agrees to pay:

- a. \$ 1200 Pre-Trial supervision fee which shall be paid directly to the Pre-Trial Diversion Coordinator. No less than \$200.00 shall be paid on or before the first meeting with the Pre-Trial Diversion Coordinator. The balance is to be paid at the rate of \$100.00 per month by certified check or money order only.

It is the responsibility of the defendant to obtain and maintain receipts evidencing program payment.

FAILURE TO PAY SHALL BE GROUNDS FOR REMOVAL FROM THE DIVERSION PROGRAM, AND UPON REMOVAL FOR ANY REASON, ALL AMOUNTS PREVIOUSLY PAID INTO THE PROGRAM BY THE DEFENDANT WILL NOT BE REFUNDED TO HIM/HER.

- b. Total restitution in the amount of \$ \_\_\_\_\_ .Restitution paid up front (minimum of 20%): \$ \_\_\_\_\_

Balance of Restitution owed:\$ \_\_\_\_\_

Scheduled payments to be made at each Pre-Trial Diversion meeting.

16) Defendant agrees to report to the Pre-Trial Diversion Coordinator monthly at the District Attorney's Office (Columbus or Starkville location). The first meeting with the Diversion Coordinator is on \_\_\_\_\_ (date) and the Defendant or their attorney will contact the Pre-Trial Coordinator prior to this date to confirm time of intake appointment. The Defendant will be informed of his/her future monthly reporting schedule by the Pre-Trial Diversion Coordinator at this first meeting.

DEFENDANT AGREES AND UNDERSTANDS THAT IF HE/SHE SHOULD VIOLATE ANY OF THE ABOVE CONDITIONS, THE DISTRICT ATTORNEY WILL TERMINATE HIS/HER PARTICIPATION IN THE PROGRAM, RESULTING IN THE REVOCATION OF HIS/HER BOND AND PROSECUTION OF CRIMINAL CHARGES PENDING AGAINST THE DEFENDANT.

THE DEFENDANT UNDERSTANDS AND AGREES THAT PRE-TRIAL DIVERSION IS A PRIVILEGE GRANTED BY THE DISTRICT ATTORNEY AND THE COURT, AND THAT ACCEPTANCE HEREIN IN NO MANNER BESTOWS UPON HIM/HER ANY RIGHT OR ENTITLEMENT, AND THAT HE/SHE MAY BE REMOVED FROM THE PROGRAM ANY TIME PRIOR TO THE END OF THE PRE-TRIAL DIVERSION PERIOD, COMMENCING THIS DATE, FOR ANY REASON, AT THE SOLE DISCRETION OF THE DISTRICT ATTORNEY, WITH OR WITHOUT THE CONSENT OR KNOWLEDGE OF THE COURT, AND THAT UPON REMOVAL HE OR SHE WILL BE PROSECUTED FOR THE CHARGES THAT WERE STAYED PURSUANT TO THIS AGREEMENT.

AGREED to this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
CIRCUIT COURT JUDGE

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

\_\_\_\_\_  
ATTORNEY FOR STATE

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSISSIPPI

\_\_\_\_\_ TERM, 20\_\_\_\_\_

STATE OF MISSISSIPPI

CAUSE NO. \_\_\_\_\_

VERSUS

\_\_\_\_\_

**SECTION VI**

**ORDER MOVING CASE TO INACTIVE FILES**

Came on to be heard this day the above styled and numbered cause on the ore tenus motion made by the State of Mississippi to pass the above styled and numbered cause to the inactive files for the reason that the Defendant has entered into the Pre-Trial Diversion Program, and the Court after hearing and considering same is of the opinion that the motion should be, and is hereby, sustained.

IT IS THEREFORE ORDERED that the above styled and numbered cause be passed to the inactive files subject to reinstatement by filing of the proper motion by either the State of Mississippi or the Defendant. The Defendant shall remain under proper surety to this Court from day to day and term to term until ordered otherwise by this Court, and the present surety shall remain in full force and effect until the Defendant is finally discharged by this Court. This bond is conditioned upon the Defendant's compliance with the terms and conditions of the Pre-Trial Diversion Program. If the Defendant is removed from the Pre-Trial Diversion Program, he or she is remanded to the custody of the Sheriff to await a status hearing set by the Court Administrator at the earliest possible time.

SO ORDERED this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
CIRCUIT COURT JUDGE