



# DAVID P. FORNSHELL

WARREN COUNTY PROSECUTOR



## PROSECUTOR'S FELONY DIVERSION PROGRAM STANDARDS WARREN COUNTY, OHIO

It is within the sole discretion of the Prosecuting Attorney to establish a pre-trial diversion program for adults who are accused of committing felony level criminal offenses and who the Prosecuting Attorney believes probably will not offend again. For these reasons, applicants to the program qualify to participate only upon satisfying the requirements as outlined in this packet. The Prosecuting Attorney expressly reserves the right to immediately reject any application which, as determined in his sole discretion, is not submitted in a timely fashion, is incomplete or involves cases which do not warrant pre-trial diversion.

### I. GENERAL DESCRIPTION

- A. In order to participate in the Diversion Program, you must be a first-time felony offender charged with a non-violent, Felony 4 or Felony 5 offense. Offenders who have misdemeanor records may apply. Their acceptance will be determined on a case to case basis, in the sole discretion of the Prosecuting Attorney. You must admit the truth of the charges against you in this case and enter a plea of Guilty to each charge included in the indictment.
- B. The Diversion Program shall not be available to persons accused of:
1. Repeat or Violent Offenders or offenses of violence;
  2. Offenses involving the violation of Chapter 2925 or 3719 of the Revised Code, or which involve the use, possession, sale or distribution of controlled substances or other drug offenses;
  3. Drug Dependent persons or persons in danger of becoming drug dependent persons or anyone eligible for Intervention in Lieu of Conviction (ILC) pursuant to R.C. 2951.041;
  4. Residential burglaries;
  5. Offenses involving the use or threat of use of weapons;
  6. Offenses in which the victim was assaulted or was in significant danger of suffering physical harm, including, but not limited to, domestic violence or child endangering;
  7. Offenses involving a violation of R.C. 4511.19 or similar offenses;
  8. Sex offenses;
  9. Offenders who have previously entered treatment, intervention or diversion programs, whether successfully completed or not;
  10. Offenders who have significant traffic or juvenile records, as determined in the sole discretion of the Prosecuting Attorney;
  11. Offenders who are charged with multiple crimes or who have charges in multiple jurisdictions;

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12. Offenders who appear to be at risk of flight or failing to appear for future court proceedings or Diversion appointments, as determined in the sole discretion of the Prosecuting Attorney;
13. Offenders charged with crimes which, in the sole discretion of the Prosecuting Attorney, demonstrate a risk to the public safety or for which Diversion would demean the seriousness of the offenses;
14. Offenders charged with crimes involving economic loss to victims who cannot demonstrate the ability or willingness to make full restitution within a reasonable period of time; and
15. Offenses for which community control may not be granted under Ohio law or which require a period of mandatory incarceration.

- C. In making the determination to approve or disapprove the offender's application for Diversion, the Prosecuting Attorney will also take into consideration the written objections of the victim and arresting law enforcement officers. In the sole discretion of the Prosecuting Attorney, such applications may be disapproved based upon objections from victims or law enforcement agencies.

## **II. THE APPLICATION PROCESS**

- A. You must complete and return the Diversion Application to the Diversion Office no later than fourteen calendar days after your Arraignment. It will take approximately seven (7) days to determine whether you are accepted in to the Diversion Program. Your application must also be signed and approved by your attorney. You must also waive all statutory and constitutional "speedy trial" provisions at the time you return your Pre-trial Diversion application. The Time Waiver is included with this Diversion Packet. The Time Waiver must be filed with the Clerk's Office and a file-stamped copy of the Time Waiver must be included with your application at the time you return the Application to the Diversion Office.
- B. If the Prosecuting Attorney and/or his designee disapprove, you will not be accepted in to the Diversion Program.
- C. You must contact the Diversion Officer if you have not heard from him or her at least one (1) day before your court date.
- D. For Non-Support Diversion, previous payment history and current payment status will be reviewed before you are considered for the Non-Support Diversion Program.

### **IF YOU ARE *NOT* ACCEPTED:**

Your case will proceed through the Criminal Court system like any other criminal case.

### **IF YOU *ARE* ACCEPTED:**

- A. You must enter a plea of guilty to the charge(s) contained in the indictment. You must also waive all statutory and constitutional "speedy trial" provisions at the time of your plea hearing. The court will withhold making a finding on your plea until you have successfully completed the diversion program or until you have been terminated from the program for non-compliance.
- B. Upon entering a plea of **guilty**, you must report *directly* to the Diversion Office after the plea hearing for your initial interview.

- C. Your length of participation in the Diversion Program will be between six (6) months and five (5) years. Your length of participation will be determined by the Prosecuting Attorney and Diversion Office after reviewing your application, the facts of the case at issue, and any other relevant factors as determined by the Prosecuting Attorney and Diversion Office.
- D. You must make a monthly appointment with your assigned Diversion Officer to review your progress in the program. The hours for appointments are between 8:00am and 4:00pm, Monday through Friday.
- E. The program fee of \$20 per month must be paid in accordance with the terms set up by the Diversion Office; a program fee is applicable in your case. **These fees are NON-REFUNDABLE. Failure to pay this fee in full and on time will result in terminating the Applicant from the Diversion Program.**
- F. You are required to pay full restitution for any damages caused by your conduct pursuant to the Repayment Agreement you arrange with your Diversion Officer, and subject to the approval of the Prosecuting Attorney For Non-Support Diversion, this includes, but is not limited to, payment of all the support arrearage due and owing at the time of indictment pursuant to the Repayment Agreement you arrange with your Diversion Officer.
- G. You must obey and abide by all laws. You must not be charged with any other crimes in any state or federal court while on Diversion.
- H. You must fulfill all requirements set forth by the Warren County Diversion Office and the Warren County Prosecutor's Office. These requirements include, but are not limited to, the following:
  - 1. You must maintain legitimate and verifiable employment.
  - 2. You must obtain your GED if you do not already have a high school diploma or GED upon entering the Diversion Program.
  - 3. You must receive and actively participate in any and all counseling deemed necessary in your case.
  - 4. You must participate in any career counseling or other career programs deemed necessary in your case.
  - 5. You will be required to comply with the Rules for the Diversion Program established by the Prosecuting Attorney, as well as the specific terms of your Diversion Agreement which may include requirements of restitution, community service, counseling or treatment. You will also be required to abide by the General Rules of Probation established for Warren County. You may also be required to testify against co-defendants and not invoke your right to remain silent.

### **SUCCESSFUL COMPLETION**

Upon successful completion of the Diversion Program, the charges against you in this case will be dismissed and you may apply to have your record sealed and expunged if you qualify to do so, the granting of which will be determined in accordance with R.C. section 2953.31 *et seq.* and 2953.51 *et seq.*

### **UNSUCCESSFUL COMPLETION**

Termination due to violating program rules is to be determined in the sole discretion of the Prosecuting Attorney and you agree to waive any right to further hearing on these violations. Upon termination from the program for non-compliance, you must appear before the Court that accepted your guilty plea on the date scheduled. The trial court will enter a finding of guilty on your earlier plea and you will be sentenced according to the law.

**III. TERMINATION OF DIVERSION**

If you violate the terms of your Diversion Agreement or if you are charged with and convicted of new crimes, your Diversion will be terminated, in the sole discretion of the Prosecuting Attorney, without further hearing. Your previously entered guilty plea will be accepted by the Court and the Court will proceed to sentence you as allowed by law.

I HEREBY ACKNOWLEDGE THAT I HAVE READ THE TERMS OF THE DIVERSION PROGRAM, UNDERSTAND THOSE TERMS, AND AGREE TO ABIDE BY THE TERMS OUTLINED IF ADMITTED TO THE PROGRAM.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Name (PLEASE PRINT)

\_\_\_\_\_  
Attorney Signature (REQUIRED)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney Name (PLEASE PRINT)

CASE NO. \_\_\_\_\_