

Guidelines for Misdemeanor Pre-Trial Diversion Program **(PTD Program)**

Acceptance into the program is not guaranteed. So please read carefully!

The District Attorney's Office reserves the right to make exceptions, within its discretion, to these guidelines and program eligibility based upon any relevant factors or circumstances presented in a defendant's application. *Exceptions will only be made in extraordinary situations.*

Do not advocate to any representative or employee of the Bexar County Criminal District Attorney's Office for acceptance into the Pre-trial Diversion Program outside the actual application process.

If additional information is required by the State, the attorney of record will be contacted via email with a request.

No reason need be given for exclusion. It is within the sole discretion of the Bexar County Criminal District Attorney's Office whether or not to allow an individual to participate in the PTD Program.

There is no appeal/review from exclusion into the PTD Program upon notification thereof.

Who is eligible?

- The Defendant is a first offender charged with an eligible misdemeanor offense (*see excluded offenses below*).
- The Defendant can be of any age as long as it is their first offense.
- The Defendant is a U.S. citizen or legal resident.
- The State will review and consider all factors noted in the application materials.
- The State will seek input from the victim (if any) when reviewing the Defendant's application packet.
- All cases will be reviewed on an individual basis to determine whether any particular defendant is eligible.
- The Bexar County Criminal District Attorney's Office reserves the sole right and discretion to reject the Defendant for any reason whatsoever. *Again, there is no right to participate in the PTD Program.*

Who is not eligible!

- A defendant is **excluded** if:
 - The Defendant has a pending felony case. *A dismissal of the felony, regardless of the reason, does not automatically result in eligibility.*
 - The Defendant has a prior criminal conviction, deferred adjudication, alternate sentencing, or pre-trial diversion, including a juvenile offense but excluding a class C traffic violation.

- The Defendant is charged with one of the following:
 - Driving While Intoxicated,
 - An offense which is sexual in nature (*not including first time only Prostitution cases*),
 - Burglary of a Vehicle,
 - Deadly Conduct,
 - An offense that involves Family Violence as defined under the law.
- The Defendant is charged with multiple non-contemporaneous misdemeanor offenses.
- The Defendant has victimized a vulnerable member of the community, including but not limited to, the elderly, the disabled or a child.
- Used or exhibited a deadly weapon during the commission of the offense.
- Is a documented gang member;
- In arrears with court ordered child support.

How Does the Defendant Apply?

- The attorney of record must be registered through eDiscovery so they can send and receive email notifications and documentation.
- The initial application form must be submitted online by the attorney of record. ***The application will not be accepted in any other manner or location.***
- The application and its requirements must be completed by the Defendant, scanned by the attorney submitted online and the fee paid within ***90 days of the initial arrest.***
- ***All supporting documents must be uploaded and scanned to the email address DAPTD@BEXAR.ORG at the same time the actual application is submitted.***
- The application fee is \$50.00 and is ***non-refundable***. This fee must be paid at the DA Cashier, Paul Elizondo Tower, 101 W. Nueva, 1st Floor (Hot Check Section Cashier). ***Cash, cashier's check or money orders only. No personal, business or law firm checks will be accepted.***
- The check must be payable to: Bexar County Criminal District Attorney's Office – PTD Program. ***The case number must accompany the payment.***
- The application must be accurate and fully complete upon submission, including all required supporting documents, or the Defendant will be excluded from the Pre-Trial Diversion Program. ***The State will not contact the attorney representing the defendant upon receipt of an incomplete or inaccurate application, so please review all documentation carefully before submission.*** The Bexar County Criminal District Attorney's Office does not have the personnel and resources to review, notify and help complete or correct any submissions.
- The State will attempt to respond within 30 days of the receipt of the Defendant's application with the decision to approve or disapprove participation in the Pre-Trial Diversion Program. If no response is received within 30 days of submission, please send a follow up email requesting a response.
- Notification of acceptance into the PTD Program will be via email to the attorney of record.
- If the Defendant is accepted into the program, the attorney must set the case on the Court's docket within 14 days of notification. The Court will then hear the Agreed Motion for Continuance for the Purpose of Defendant's Participation in the Pre-Trial Diversion Program.
- ***There is a Grandfather Clause for pending cases. If the Defendant would have previously been denied participation due to their age, an application may be submitted within 90 days of the official launch date of this program. The launch date for the program is May 26, 2015. The 90 day deadline is firm.***
- ***The Grandfather Clause does NOT apply to a defendant previously rejected from the program, or a defendant within the age range of 17 to 21 who failed to submit an application by the deadline. Do not apply if the defendant fits into either category.***

What is required in the Application Packet of the Defendant for Pre-Trial Supervision?

- The Defendant must turn in the application packet within 90 days of their initial arrest for the offense charged. **The 90 day deadline is firm.**
- The Defendant must submit two letters of recommendation, from non-family members, along with contact information, in support of their application to the program. The State reserves the right to contact the individuals recommending the Defendant for the program.
- The Defendant must submit the results of a urinalysis with their application for the purpose of establishing a baseline if needed.
- The Defendant must provide proof of employment, or they are actively seeking employment, or school enrollment or some combination thereof unless otherwise exempted upon demonstrating good cause.
- The Defendant must fill out the portion of the application explaining why they should be allowed to participate in the Pre-Trial Diversion Program.
- The Defendant must stipulate to their guilt in exchange for participation in the Pre-Trial Diversion Program. **Stipulations of Nolo Contendere will not be accepted.**
- The Defendant must waive their Constitutional rights to a jury trial, to confront the witnesses against them and to remain silent in exchange for their participation in the program.
- If the Defendant is terminated from the program for any reason they agree the stipulation can be used against them as evidence of guilt in subsequent prosecution of their case.
- **None of the foregoing is negotiable for the purpose of participation in the PTD Program and must be complied with in their entirety.**

What will supervision of the Defendant involve if accepted into the PTD Program?

- Upon acceptance into the program, the Defendant will be supervised by the Bexar County Community Supervision and Corrections Department (CSCD).
- The Defendant must undergo a screening by CSCD called the Texas Risk Assessment System (TRAS). CSCD will supervise the defendant based on the risk level and specific needs identified by this assessment. **Compliance with recommendations, based upon the TRAS assessment, is mandatory and non-negotiable.**
- The State reserves the right to make additional recommendations regarding the Defendant's supervision to the Community Supervision Department which are appropriate given the facts and circumstances of a particular case.
- Supervision will typically range from 6 months (Class B) to 1 year (Class A), but can be shortened or extended up to two years by CSCD, depending on the Defendant's rehabilitation needs, the seriousness of the offense, or other conditions the CSCD or State of Texas deem appropriate.
- **Fees:**
 - The Defendant must pay a \$300.00 Program Fee. **However, the fee is only \$200.00 if paid before or upon the execution of the actual Pretrial Diversion Agreement.** If the fee is paid up front, payment will be made through the DA cashier. If not, payment will be made through CSCD.
 - The Defendant will be responsible for a \$60.00 per month fee to go to the Bexar County Community Supervisions Department for the cost of supervising the defendant.
 - The Defendant must pay the \$10.00 UA fee, if UA's are a condition of his/her supervision.
 - The Defendant must pay the \$140.00 court appointed attorney fee if the attorney is not hired.
 - The Defendant may also incur additional costs for any counseling, classes, urinalysis testing, drug treatment, etc. that the Community Supervisions Department deems necessary for the rehabilitation of the Defendant.

- If restitution is owed, the defendant ***must pay restitution in full up front***. The money order or cashier's check will be made payable to the complainant in the case and submitted to CSCD on the first reporting day of their supervision.
- The Defendant will be required to do community service hours as a condition of the supervision (the minimum amount for a Class B is 24 hours and 48 hours for a Class A). ***Community Service Hours may not be purchased or 'bought out', but actually performed.***
- The Community Supervision department will notify the State of any violation of the terms and conditions of supervision.
- The State reserves the right to terminate the Defendant's supervision based upon ***any*** violation of the terms and conditions, regardless of its perceived seriousness, at ***any*** time.
- If the State decides to terminate the Defendant's participation in the PTD program, the defendant and the attorney of record will be notified.
- There is no right to a termination hearing before the Court.
- The decision to terminate the Defendant's supervision in the PTD Program is not appealable or reviewable, but within the sole discretion of the Bexar County Criminal District Attorney's Office.

What happens if the Defendant successfully fulfills all the terms and conditions of the Pre-Trial Diversion Program?

- The Bexar County Criminal District Attorney's Office will tender a dismissal to the Court in the Defendant's case.
- The State will not oppose the Defendant's immediate Petition for Expunction.

These guidelines are subject to change at any time at the sole discretion of the Bexar County Criminal District Attorney's Office

Carefully consider all of the above before submitting an application and agreeing to participate in the Pre-Trial Diversion Program.