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## **Collin County District Attorney Greg Willis'**

### **Burden-to-Blessing Pre-Trial Diversion Program Guidelines**

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The following sets forth the policy, procedure, and minimum eligibility requirements for obtaining the District Attorney's approval for the entry of a defendant into Collin County District Attorney Greg Willis' Burden to Blessing Pre-Trial Diversion Program ("Diversion Program") supervised by the Collin County Community Supervision and Corrections Division ("CSCD"). To be eligible, the defendant must freely admit guilt, be willing to complete all of the terms of the Diversion Program, and refrain from any further criminal activity.

#### **I. Mission Statement**

Justice takes many forms, and while the Collin County District Attorney zealously prosecutes violent and habitual defendants, we are also committed to re-imagining the traditional role of a prosecutor and the system we represent.

The mission of the Burden to Blessing Pre-Trial Diversion Program is preventing crime and increasing public safety by holding an eligible defendant accountable while providing the resources, skills, community-relationship building, and education needed to break the cycle of crime.

#### **II. What is the Diversion Program?**

The Diversion Program is a voluntary program for a defendant charged with a criminal offense to have the opportunity to earn an immediate expunction. The program is an alternative to prosecution that offers a defendant a chance to avoid a criminal conviction and other punitive sanctions, including fines, probation, and incarceration.

Pursuant to Government Code Sec. 76.011, defendants who complete the program may avoid prosecution and potential conviction for their charge.

#### **III. Defendant Eligibility**

Eligibility to participate in the program will be determined on a case-by-case basis.

##### **a. Participant Profile**

Denial of admission to the Diversion Program will not be based on race, gender, sexual preference, economic status, disability, or inability to pay program fees.

##### **b. Criminal History**

*Adult Criminal History:* The defendant should have no prior adult felony convictions and no prior convictions for violent misdemeanors. Arrest history, as well as the final disposition of charges, will be reviewed and considered. Exceptions may be approved by the Diversion Prosecutor.

*Juvenile Criminal History:* If a defendant is twenty-five (25) years old or less and possesses a juvenile record of criminal offenses indicative of disregard for criminal laws, the defendant may

be disqualified for entry into the Diversion Program based on this record. Exceptions may be approved by the Diversion Prosecutor.

#### **IV. Offense Eligibility**

Each case is reviewed on a case-by-case basis. Cases may be denied from the Diversion Program for any reason including the following: late application, nature of the offense, facts of the case, defendant's criminal history, defendant needing more support than the Diversion Program can offer, failure to schedule PTD Orientation, failure to appear for PTD orientation, positive drug tests, missing a court date, additional arrests, etc.

##### ***i. Ineligible offenses***

The Diversion Program does not accept those charged with violent offenses, domestic violence offenses, sexual-offender-related offenses, offenses involving the neglect or abuse of children, offenses involving weapons, or Driving While Intoxicated (DWI) or related offenses.

Any and all offenses arising out of the same transaction of an ineligible offense will also be ineligible for the Diversion Program.

##### ***ii. Exceptions***

Exceptions may be approved by the Diversion Prosecutor. Entry into the Diversion Program may be denied for any reason, including the circumstances of the offense.

#### **V. Application Components of Diversion Program**

Applications for entry into the Diversion Program must be submitted through the District Attorney's website within 30 calendar days of the date an attorney is hired or appointed or within 30 calendar days of the first appearance, whichever is later.

##### **a. Required documents**

All applications must include: a signed agreement, a sworn statement, a personal statement, and completed and signed CSCD forms.

##### ***i. Agreement Signed by Defendant and Attorney***

The defendant must voluntarily, knowingly, and intelligently sign the Agreement stating that he/she has been fully advised of his/her Constitutional Rights, including, but not limited to, the right to remain silent regarding the facts and circumstances related to the offense for which the defendant has been arrested/charged.

This Agreement also states that the defendant has waived the right to a Speedy Trial on the said offense for the period of time required for a final decision regarding the Application. In the event the defendant is accepted into the Diversion Program, the defendant waives his/her right to a Speedy Trial until the defendant is terminated from the program, whether satisfactorily or unsatisfactorily. The defendant's attorney shall be required to confirm that he/she has also advised the defendant of these same rights.

This document also includes both mandatory items for all defendants, as well as an acknowledgment that CSCD may assess other conditions which are designed to help the defendant overcome issues that led to the criminal offense and to expand their life skills to help them be successful, non-offending adult members of the community. Defendants are responsible for ALL costs associated with any contract items.

**ii. *Sworn Statement***

Defendants must submit a sworn statement as part of the Diversion Program application.

The defendant must voluntarily, knowingly, and intelligently execute a signed and sworn typed statement relating the facts and circumstance of the offense for which the defendant has been charged. The application will be rejected if the defendant's factual statement is not consistent with guilt.

If the defendant is not accepted into the Diversion Program the provided statement will not be used as evidence against the defendant in the State's case in the event of trial on these charges; however, if there is a trial on these charges and the defendant testifies, the statement may be used as rebuttal evidence for purposes of impeachment.

If the defendant is accepted into the Diversion Program and is subsequently unsatisfactorily terminated from the Program, this statement may be used as rebuttal evidence in the State's case, if there is a trial on the charge for which the defendant applied for entry into the Diversion Program.

**iii. *Personal Statement***

Upon applying for entry into the Diversion Program and prior to any further processing of such application, the defendant must submit a personal statement relating why he/she wants to participate in the Diversion Program, what he/she is going to do with this second chance, and how participation in the Diversion Program will affect his/her life.

The participant may be denied from the program if the defendant's personal statement does not show a sincere desire to be admitted into the program and a commitment to change.

**iv. *CSCD Forms***

Defendants must fill out and sign the CSCD forms as a part of the Diversion Program application.

**b. *Optional documents***

Defendants may submit additional documents such as letters of recommendation, their resume, and transcripts to be considered in conjunction with their Diversion Program application.

## **VI. Diversion Program Conditions**

### **a. Life Skills Course**

All participants must complete the Super Saturday: Framing New Horizons class as a condition of the Diversion Program. The class is a one-day Saturday class that provides participants with valuable skills such as: identifying patterns and behaviors that led to an arrest, problem-solving skills, and how to respond appropriately to triggers.

Completion of the mandatory Super Saturday class will waive 40 hours of community service.

Participants will also have the option to opt-in for the 5 Night Re-Write: Scaling New Horizons class that focuses on career design. This course equips participants with resume building skills, job interview skills, and other essential career skills.

Completion of the optional 5 Night Re-Write class will waive an additional 40 hours of community service.

### **b. Community Service**

Every participant must complete community service as a condition of the Diversion Program. Community service hours must be completed in Collin County at a location approved by the Diversion Prosecutor or Supervision Officer.

#### ***i. Requirements***

Misdemeanor cases: Participant must complete 80 hours of community service.

Felony cases: Participant must complete 120 hours of community service.

#### ***ii. Waiver of Community Service***

Community service hours will be waived upon completion of Super Saturday and the 5 Night Re-Write classes. Each course is worth 40 hours of community service credit.

Super Saturday is mandatory. 5 Night Re-Write is optional.

### **c. Fees and Restitution**

#### ***i. Fees***

The Diversion Program has a \$500.00 fee which must be paid in full before admittance into the Program. The Diversion Program fee is waived for indigent defendants.

The defendant is also required to pay CSCD a supervision fee of \$55.00 per month as well as to submit to a drug/alcohol test at orientation and pay the \$25.00 testing fee. There will be additional random drug/alcohol testing throughout the probation period, and there is a \$25.00 fee per test.

#### ***ii. Restitution***

If a person or persons suffered monetary loss as a direct result of the commission of the offense for which the defendant was charged, the defendant must be ready, willing, and

able to make full restitution, and such restitution must be paid on or before the Defendant's PTD Orientation date.

Failure to pay the restitution upfront may result in Defendant's denial of entry to the Diversion Program.

**iii. *Payments***

Payments will be made to CSCD. Payments must be made by credit card, money order or cashier's checks made payable to Collin County CSCD. Payments may also be made online at: [www.CollinCountyTX.gov/supervision\\_corrections](http://www.CollinCountyTX.gov/supervision_corrections).

**d. Program Length**

**i. *Misdemeanor Charge***

Participants in the Diversion Program with a misdemeanor charge will be supervised for up to one year. Participants with a misdemeanor charge may be eligible for early release from the program as early as six months.

**ii. *Felony Charge***

Participants in the Diversion Program with a felony charge will be supervised for up to two years. Participants with a felony charge may be eligible for early release from the program as early as one year.

**e. Reporting**

Once admitted to the Diversion Program, participants will be required to report to their Supervision Officer in-person every month until they are released from the program. Proof of completion of courses and community service hours will need to be provided to the Supervision Officer each month.

**f. Drug/Substances/Alcohol Testing**

Participants are not allowed to use any illicit substances while in the Diversion Program. If the participant is under 21 they may be tested for alcohol use. Participants who are determined to have a substance abuse issue may be required to abstain from using particular substances. Supervision Officers may also contact participants at any time during their participation in the Diversion Program to request a urine analysis.

Failure to timely submit to a urine analysis may result in removal from the program. Submitting a diluted or positive sample may result in removal from the program.

**g. Mandatory Contract Items**

- No further criminal violations
- Truthfully answer all questions asked by supervision officer
- Report all contact with police/law enforcement within 24 hours
- No weapons possession
- Pay all court costs, fines, restitution, and supervision fees

- Community service at a rate of no less than 10 hours per month
- Alcohol and drug evaluation
- Breathalyzer call-ins
- No drug use – monitored scans
- Drug/alcohol treatment as determined
- Mental health evaluation and/or treatment, as determined
- Drive only with Valid Driver's License and Insurance

#### **h. Special Conditions**

If in the opinion of the Diversion Prosecutor or CSCD, the defendant is in need of special counseling, mentoring, classes, therapy, or services, the defendant must agree to participate in such programs as a specific condition of his/her satisfactory completion of the Diversion Program.

If the defendant is not willing to accept these conditions, the defendant may be removed from the program.

### **VII. Discharge from the Diversion Program**

#### **a. Removal from the Diversion Program**

Defendants may be removed from the Diversion Program for continued substance abuse, non-compliance, arrests for an additional offense, and other reasons. A Notice of Removal will be filed with the court and the case will be put back on the docket for full prosecution.

#### **b. Successful Completion of the Diversion Program**

Once participants successfully complete the Diversion Program, the case will be dismissed. Defendants may then file to have the case expunged from their record.

##### ***i. Early Release***

Participants may also be released early from the Diversion Program if all conditions are completed satisfactorily and there have been no compliance issues. Participants with a misdemeanor charge may be released as early as six months after their orientation date. Participants with a felony charge may be released as early as one year after their orientation date.

##### ***ii. Full-Term Completion***

Participants have the full term of their supervision to complete required conditions. Participants with a misdemeanor charge will be supervised for up to one year. Participants with a felony charge will be supervised for up to two years.