

OFFICE OF THE SOLICITOR-GENERAL OF COBB COUNTY

Effective date: May 15, 2024

Eligibility

Defendants charged for the first time with:

- Minor in Possession/Possession of False ID
- VGCSA
- Theft-Related Offenses
- Criminal Trespass – Remain
- Public Intoxication
- Loitering and Prowling

The following will DISQUALIFY a defendant from participation in Pre-Trial Diversion:

- Any prior diversion for any of these charges or domestic violence,
- A prior arrest for the charge they are seeking Diversion for,
- A conviction for for any offense other than minor traffic offenses make defendant automatically ineligible for the program (including First Offender, pleas of *nolo contendere* and Conditional Discharge); or
- If the defendant is charged with another crime while the original case is pending.

Acceptance into the diversion program is at the sole discretion of the Solicitor-General, not the State Court. If the facts of the case or the criminal history of the defendant do not warrant diversion, Defendant will not be placed in the program. This determination is within the sole discretion of the Assistant Solicitor.

The defendant must complete the Pre-Trial Diversion Program WITHIN 12 WEEKS OF ENTERING THE PROGRAM. The Assistant Solicitor-General will write the completion date when he/she signs the form.

If upon completion of the program a criminal history check reveals that the defendant has been arrested prior to entry into, or during pendency of, the diversion program, diversion will terminate and the case returns to a regular trial court calendar.

If diversion is successfully completed and the case dismissed, the charge will be automatically restricted on the defendant's criminal history.

Restitution, if any will be determined by the Assistant Solicitor-General. All restitution must be paid in full on the final court date. Failure to do so will result in removal from the program.

PROCEDURE

In an effort to ensure all defendants are treated equally, there will be no deviations from the requirements listed below.

A defendant seeking Diversion must be represented by an attorney. Petition forms may be picked up at the Office of the Solicitor-General or from the courtroom.

The defendant must review, initial, and sign petition with their attorney prior to the following:

1. Deliver initialed and signed petition to the Assistant Solicitor assigned to defendant's case.
2. After petition is reviewed, given a completion date, and signed by the assistant solicitor, it is the responsibility of the attorney to file the approved and signed original diversion petition with the Clerk of State Court. A nonrefundable diversion fee of \$350.00 is required. Payment is to be made by Visa, MasterCard, debit card, money order, or check from the attorney's escrow account, made payable to "State Court of Cobb County."

If the defendant is truly indigent, the \$350.00 fee is waived if he/she completes 30 additional hours of community service and pays the \$50.00 Circuit Defender fee. Payment is to be made by Visa, MasterCard, debit card, money order, or check from the attorney's escrow account, made payable to "State Court of Cobb County." The Circuit Defender's Office will determine true indigency.

3. After the petition is filed with the clerk, the attorney shall deliver a file-marked copy of petition, with the receipt attached, to the Solicitor's office.

4. If the accused is under the age of 21, they will need to write an essay about why they should follow the law and the possible consequences of breaking the law. The essay must be two (2) handwritten pages – not typed. The essay needs to be submitted to the Assistant Solicitor with the petition at the time program consent is requested.

MINOR IN POSSESSION / VGCSA / PUBLIC INTOXICATION

1. Community Service

- Forty (40) hours of community service. Proof of community service must be provided on letterhead of the 501(c)(3) charity and signed by a representative of the charity, with a contact name and number for verification.

2. Three (3) clean screens for both alcohol and drugs within 12 weeks after entering the program.

- ALL drug screens must be done through the Cobb Superior Court Drug Lab.
- The screens are to be done 20-30 days apart. The first drug screen must be completed within 10 days of filing the petition.
- A release form (attached) must be signed; the results will be sent directly to the Solicitor's Office.
- If the first screen is positive for drugs or alcohol, it will serve as a baseline for future tests. If drug or alcohol levels increase on any future tests, the defendant will be removed from the program. The defendant must still provide three (3) clean screens during the 12 weeks and according to the schedule above in order to complete the program. Diluted screens MAY count as a failed drug screen.

***The Assistant Solicitor may allow the defendant to complete their drug/alcohol screens at a certified, established drug facility outside of Cobb County. This is solely at the discretion of the Assistant Solicitor assigned to the case.**

3. A drug and alcohol evaluation and any and all recommended treatment.

- Evaluations must be administered by a state-certified practitioner. These approved practitioners include: LPC,

LCSW, LMFT, Clinical PHD in psychology, and MD of psychiatry.

- Evaluations should be completed early enough in the 12-week window to allow enough time to complete treatment within that time period.
 - If treatment is recommended that exceeds the 12 week time period, the Assistant Solicitor may extend the time period as to give the defendant enough time to complete the treatment.
4. Must complete one of the following:
- 1 Victim Impact Panel (MADD or similar)
 - 2 S.M.A.R.T. program
 - 3 Teen Drug and Alcohol Impact Program (under 25)
5. The defendant **MUST** appear in court on the day the case is dismissed.

THEFT / LOITERING / CRIMINAL TRESPASS

1. Community Service
 - Forty (40) hours of community service. Proof of community service must be provided on letterhead of the 501(c)(3) charity and signed by a representative of the charity, with a contact name and number for verification.
2. A drug and alcohol evaluation **MAY** be required if the Assistant Solicitor-General determines that alcohol/drugs were involved in the case.
3. Three (3) clean screens for both alcohol and drugs within 12 weeks after entering the program. (Same as above, **MAY** be required if the Assistant Solicitor-General determines that alcohol/drugs were involved in the case).
 - ALL drug screens must be done through the Cobb Superior Court Drug Lab.
 - The screens are to be done 20-30 days apart. The first drug screen must be completed within 10 days of filing the petition.
 - A release form (attached) must be signed; the results will be sent directly to the Solicitor's Office.

- If the first screen is positive for drugs or alcohol, it will serve as a baseline for future tests. If drug or alcohol levels increase on any future tests, the defendant will be removed from the program. The defendant must still provide three (3) clean screens during the 12 weeks and according to the schedule above in order to complete the program. Diluted screens MAY count as a failed drug screen.
4. Defendant must stay away from the incident location.
 5. Defendant **MUST** appear in court on the day the case is dismissed.

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

* CASE NUMBER: _____

* WARRANT NO.: _____

* ATTORNEY NAME: _____

RETAINED OR APPOINTED: _____

PETITION FOR DIVERSION

Comes now, _____, defendant charged in the above styled case, and shows the Court the following:

1.

Defendant is charged with the offense of _____, which is a non-violent offense against the laws of the State of Georgia.

2.

Defendant further shows that he/she is _____ years of age and has never pled guilty to nor adjudicated guilty of a crime.

3.

Defendant has been advised of the Solicitor-General's Diversion Program, is eligible, and agrees to complete all criteria necessary to enter said program. Defendant understands and agrees that if it is discovered, even after completion of the program and a dismissal entered, that defendant was not eligible for Diversion, the case will be re-accused and defendant prosecuted as in any other case. Defendant has further been advised that upon satisfactorily completing the program a *Nolle Prosequi* will be submitted by the State.

4.

Defendant understands and agrees that the Diversion program should be equal in its treatment of all who enter. Diversion is a privilege and not a right. Defendant understands and agrees that there will be ***NO DEVIATION*** from the requirements listed below. Defendant agrees that should he/she not complete the program in its entirety by the date agreed in this petition, the case will be removed from the Diversion Program and prosecuted as any other case. Defendant understands and agrees that should he/she fail to complete all the requirements of the program listed in this petition, defendant's case will be returned to the normal criminal court process, even if the case has already been dismissed.

5.

Defendant has been advised of all his/her Constitutional Rights by the undersigned attorney and understands the requirements to waive certain of these rights in order to enter the program, but agrees that should he/she not be accepted into the Diversion program for any reason and the case be returned to the normal criminal court calendar, no information released may be used against the defendant in any trial proceeding.

6.

Defendant understands and agrees that the Solicitor-General of Cobb County, and not the Court, is the final arbiter of whether defendant is eligible for and has successfully completed the Diversion program, or whether the case should be returned and prosecuted as any other case.

7.

Defendant has read the eligibility requirements and Program requirements as listed below, consulted with their attorney, and agrees that all eligibility requirements have been met, and understands and agrees that all requirements will be performed with ***NO DEVIATIONS*** from the listed criteria.

Defendant must initial the following:

_____ A defendant seeking diversion must be represented by an attorney.

_____ The attorney must file the original diversion petition approved by this office with the Clerk of State Court.

_____ A diversion fee of \$350.00 will be required. Payment is to be made by Visa, MasterCard, debit card, money order or check from the attorney's escrow account made payable to "State Court of Cobb County." A receipt and

a filed copy of the Petition must be given to the Diversion Coordinator of the Solicitor-General's Office within 48 hours of filing with the clerk's office.

_____ If a defendant is truly indigent, the \$350.00 fee is waived as long as he/she completes 30 additional hours of community service and pays the \$50.00 Circuit Defender fee. The Circuit Defender's Office will determine true indigency. A certificate of indigency and the \$50.00 Circuit Defender fee must be submitted with the petition. If indigency is requested and determined, it is the responsibility of the defendant to provide proof of additional community service hours.

_____ Defendant must complete the following within 12 WEEKS OF ENTERING THE PROGRAM:

MINOR IN POSSESSION / VGCSA / PUBLIC INTOXICATION

_____ Forty (40) hours of Community Service (see page 3)

_____ Three (3) clean screens for both alcohol and drugs within 12 weeks after entering the program at the Cobb County Superior Court Drug Lab. (see page 3)

_____ A drug and alcohol evaluation and any and all recommended treatment to be completed with the 12-week time period. (see pages 3-4)

_____ One of the following:

1. victim impact panel (MADD or similar)
2. S.M.A.R.T. program
3. Teen Drug and alcohol Impact Program (under 25)

_____ A handwritten essay, if defendant is under the age of 21. (see page 3)

_____ Defendant **MUST** appear in court on the day the case is dismissed.

_____ If restitution is necessary, defendant must pay \$_____ in restitution, payable to the State Court Clerk by Visa, Mastercard, certified attorney's check or money order, at the time dismissal is requested. **The dismissal cannot be filed without restitution paid.**

_____ Defendant understands and agrees that failure to perform all requirements of the Diversion program outlined in this Petition constitutes a material breach of this agreement and will result in the case being removed from the Diversion Program. Defendant further understands and agrees that if the case is dismissed and it is discovered that defendant did not complete all requirements of the Program, the case will be re-accused and prosecuted like any other case.

THEFT / LOITERING / CRIMINAL TRESPASS

_____ Forty (40) hours of Community Service (see page 4)

_____ A handwritten essay, if defendant is under the age of 21. (see page 3)

_____ A drug and alcohol evaluation and any and all recommended treatment to be completed with the 12-week time period. (If required by the Assistant Solicitor-General)(see pages 3-4)

_____ **Note to prosecutor:** Please initial here if drug/alcohol evaluation is required.

_____ Three (3) clean screens for both alcohol and drugs within 12 weeks after entering the program. (see pages 4-5)

_____ **Note to prosecutor:** Please initial here if the 3 clean screens are required

_____ Defendant ***MUST*** appear in court on the day the case is dismissed.

_____ If restitution is necessary, defendant must pay \$_____ in restitution, payable to the State Court Clerk by Visa, Mastercard, certified attorney's check or money order, at the time dismissal is requested. **The dismissal cannot be filed without restitution paid.**

_____ Defendant understands and agrees that failure to perform all requirements of the Diversion program outlined in this Petition constitutes a material breach of this agreement and will result in the case being removed from the Diversion Program. Defendant further understands and agrees that if the case is dismissed and it is discovered that defendant did not complete all requirements of the Program, the case will be re-accused and prosecuted like any other case.

_____ **The Program MUST be completed by _____.**

This the _____ day of _____, 20____.

Defendant

Signature of defendant's Attorney

Name, Phone, Email, and Bar Number (PLEASE PRINT):

Consented to:

Assistant Solicitor-General

Date

PRETRIAL DIVERSION PROGRAM

Solicitor General's Office
Cobb Judicial Circuit

THE STATE OF GEORGIA

CASE NO. _____

VS

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____, having requested to participate in the Pretrial Diversion Program, hereby consent to communication, within or outside my presence, 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 this program, any representative of the Solicitor-General's Office designated by the Solicitor-General, 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, and that such results may be made part of the public record of my case in the event that such testing results in my termination from the program.

I understand and agree that the purpose and need for this disclosure is to assist the Solicitor-General's Office in evaluating and determining my eligibility to participate in the Pretrial Diversion Program as well as my counseling needs, compliance and progress in accordance with program criteria. I hereby agree to hold such individuals harmless and relieve and release such individuals from any and all liability regarding any such communication.

Recipients of this information may not re-disclose it except in connection with my counseling or treatment, or otherwise as permitted by federal law and rules. I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Pretrial Diversion Program, and/or a formal discontinuation of court proceedings regarding my case.

Defendant

Date