

# 12<sup>th</sup> JUDICIAL DISTRICT ATTORNEY OFFICE

## PRE-PROSECUTION DIVERSION (PPD) PROGRAM GUIDELINES

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### **ELIGIBILITY GUIDELINES**

#### 1) **31-16A-2. PURPOSE**

The purpose of the Pre-Prosecution Diversion Act [31-16A-8 NMSA 1978] are to remove those persons from the criminal justice system who are the most amenable to rehabilitation and least likely to commit future offenses, to provide those persons with services designed to assist them in avoiding future criminal activity, to conserve community and criminal justice resources, to provide standard guidelines and to evaluate Pre-Prosecution Programs.

#### 2) **31-16A-4. STATUTE ELIGIBILITY**

A defendant must meet the following minimum criteria to be eligible for a Pre-Prosecution Program.

1. The defendant must have no prior felony convictions for a violent crime;
2. The defendant is willing to participate in the program and submit to all program requirements;
3. Defendant must be represented by a Defense Attorney
4. Any additional criteria set by the District Attorney

#### 3) **ADDITIONAL CRITERIA SET BY THE DISTRICT ATTORNEY**

A. Defendant(s) charged with the following crimes are ***not eligible*** to apply to the PPD Program **without District Attorney or Deputy District Attorney Approval:**

1. Crimes against children
2. Burglary of a residence or of a business; Breaking and Entering of a residence

3. Carrying of a Firearm into a School or Licensed Liquor Establishment
4. Sex Crimes: Criminal Sexual Penetration, Sexual Contact, or Failure to Register as a Sex Offender
5. Trafficking or Possession of an Illegal or Controlled Substance and/or a Dangerous Drug
6. Multiple criminal charges occurring at different times and in different locations
7. The Crime alleged to have been committed by the defendant is violent in nature, with the exception of domestic disputes not involving a minor
8. Defendant is pending charges or received new charges while awaiting outcome of any pending charge
9. Child Abuse resulting from a DWI or DUI

**B.** Defendant(s) having the following criminal or pending background are *not eligible* to apply to the PPD Program:

1. Prior felony or misdemeanor conviction that is violent in nature
2. Misdemeanor convictions in which the offense is similar to pending charge
3. Unsatisfactory or Revoked Probation for any offense
4. Prior juvenile adjudication for felony charges
5. Prior juvenile commitment to a boy's or girl's school or similar youth facility
6. Previous participation in a First Offenders Diversion Program
7. **Pending charge of a DWI /DUI (No Exception – Not eligible);** Defendant can enter on other eligible charges, but s/he must plea to the DWI/DUI charge.

**C.** Crimes eligible for PPD (not an exhaustive list):

1. Shoplifting / Theft
2. Embezzlement (must be Deputy DA approved)
3. Assault / Battery on a Household Member
4. Criminal Damage to Property
5. Possession of Drug Paraphernalia or Marijuana (Less than 1-2 ounce- must be approved by Deputy DA)
6. Assault / Battery
7. Aggravated Assault (Must be Deputy DA approved)
8. Reckless Driving
9. Fleeing / Evading an officer

**D.** Defendant(s) must be willing to submit to the following minimum requirements as set by the District Attorney:

1. Defendant must be willing to attend any and all counseling as set by the PPD Director at defendants own expense:
  - a. Domestic Violence Counseling:  
Battery or Assault on a Household Member (any type)
  - b. Theft Awareness and Budgeting Counseling:  
Shoplifting  
Embezzlement  
Theft/Stealing
  - c. Anger Management Counseling:  
Assault  
Criminal Damage to Property  
Resisting or Evading an Officer
  - d. Defensive Driving Counseling  
Evading an officer via a vehicle  
Reckless Driving
  - e. Parenting Counseling:  
Abuse of a Child  
Child Neglect
  - f. Drug and Alcohol Rehab/Counseling  
Possession of Drug Paraphernalia  
Possession of Marijuana  
DWI Related offenses  
Any alcohol related offenses
2. Defendant must be willing to pay a probation fee of \$85.00 per month for a maximum of 12 months.
3. Defendant must be willing to complete 80 – 120 hours of community service within the first 6 months of supervision
4. Defendant must be willing to commit to a minimum of 12 months to a maximum of 24 months of supervision (Defendant will sign a 24 month contract with a possible release at 12 months with no violations and Prosecutor Approval)
5. Defendant must be willing to submit to random drug testing at defendants own expense

4) **FEE:**

1. A fee of \$85.00 will be assessed per month for a total of 12 months.

5) **Completion of PPD:**

1. At the successful completion of the PPD program, the defendant's charges will be dismissed.
2. PPD Director will ensure that the following documents are filed with the Court:

a. NOLLE PROSEQUI

b. NOITICE OF SUUCCESSFUL COMPLETION  
OF PPD

6) **TERMIANTION OF PPD:**

1. If at any time the defendant fails to meet the requirements of the PPD program, the defendant will be terminated.
2. Grounds for Termination are as follows:
  - a. Fails to comply with the PPD Program Probation Contract
  - b. Defendant is arrested or charged with any new offense