



City of Tybee Island Municipal Court

Pre-Trial Diversion Program Guidelines

The Diversion program was created pursuant to O.C.G.A. § 15-18-80 as an alternative to the prosecution of offenders in the criminal justice system. The Diversion Program is designed for first offenders who have committed crimes that did not result in injury to a victim, are otherwise non-violent and non-aggressive in nature and do not involve driving under the influence charges, nor domestic violence; examples include but are not limited to Shoplifting, Underage Consumption, Possession of Marijuana. Therefore, because of the requirements set forth at O.C.G.A. §35-3-37, any case considered for acceptance in the Diversion Program must be accused or indicted prior to being accepted in the program. The Assistant Direct Attorney must approve any deviation from these published guidelines and may deviate from these guidelines.

Each individual accepted to participate in the Pretrial Diversion Program will be required to enter into a contractual agreement, and will be subject to an individualized program of supervision by the Municipal Court of Tybee Island, which may include counseling, education, drug screening, and community service work, for a specified period of time in lieu of traditional prosecution.

Participation in the Diversion Program will be voluntary and if there is counsel, with the advice of counsel, will occur prior to adjudication and if participants satisfactorily complete the Diversion Program, will result in dismissal or Nolle Prosequi of the charges. It is designed to benefit the individual program participant as well as the overall criminal justice system for the City of Tybee Island.

Acceptance into the Diversion Program will generally be based upon the following eligibility criteria;

1. The Victim's response to the Defendant's petition for Diversion.
2. Offenders with no criminal record will be eligible for program participation. Some exceptions may apply.
3. Offenders must be at least 17 years of age and voluntarily petition the Assistant District Attorney via the Municipal Court of Tybee Island requesting consideration for participation in the Diversion Program.
4. The case against the offender must be prosecutable.
5. As a rule, offenders must be gainfully employed or a full-time student. (An exception of this would be a homemaker who would not be required to obtain full-time employment.)
6. Offenders must be of stable mind and have a stable place of residence.
7. Offenders, as part of the application process, must agree to sign forms waiving the right to:
 - a. Certain Constitutional rights including the right to a speedy trial
 - b. Maintain confidential information such as juvenile records (such records are needed for the purpose of eligibility investigation) and the Offender does not have to admit guilt.
8. The offender must agree to pay all applicable monetary obligations, which may include an administrative fee, supervisory fees, restitution to victims, reimbursement for appointed attorney's fees, and/or drug screening fees.
9. The offender must be able and willing to travel to a designated laboratory for drug testing whenever instructed to do so if part of the program. In order to accomplish such testing, the offender must maintain a valid, current, state-issued form of identification.
10. The offender must agree to be supervised for a reasonable period of time which will be determined following an evaluation of the individual circumstances of his or her case.

11. The offender must agree to perform a specified amount of community service if applicable, and/or to complete reasonable counseling and/or education programs required by the Assistant District Attorney. The necessity and amount of such community service and/or counseling will be determined following an evaluation of the individual circumstances of the offender and his or her case.
12. The circumstances surrounding the defendant's arrest and subsequent conduct must reasonably lead to the conclusion that the defendant is amenable to correction and unlikely to offend again.

The following persons will **not qualify** for participation in the Diversion Program:

1. Persons with extensive juvenile records.
2. Persons who have previously been arrested or convicted, as an adult, of any criminal offense, unless unusual circumstance indicate that an exception should be made.
3. Persons who have escaped custody or willfully failed to appear in court while on bond.
4. Persons who have escaped from a mental hospital.
5. Persons with felony convictions.
6. Persons who have been arrested for Felony Violation of the Georgia Controlled Substance Act.
7. Persons who are currently dependent upon drugs and/or alcohol or have used illegal drugs subsequent to the arrest.
8. Currently affiliated gang members.
9. The charges are related to domestic violence.
10. Persons charged with a DUI.

In order to be considered for acceptance in the Pre-Trial Diversion program, the offender will be required to file application materials with the Municipal Court of Tybee Island. The Pre-Trial Diversion Coordinator will assess the eligibility of the individual offender based upon the criteria outlined above. If the offender is rejected the case will be returned to the assigned Judge and Assistant District Attorney for prosecution. If the offender is accepted, a contractual agreement outlining the conditions of participation will be prepared and executed.

The offender will be required to pay an administration fee which will not exceed \$1000.00, pursuant to O.C.G.A. § 15-18-80. The amount will be determined by the Assistant District Attorney.

Upon execution of the contractual agreement, the offender will be enrolled in the Pre-Trial Diversion Program for a specified period of time, and for the duration of the program the offender will be under the supervision and monitoring of the Municipal Court of Tybee Island. Upon successful completion, bond will be released and the charges dismissed or a Nolle Prosequi entered.

Upon successful completion, the participant may apply for a record restriction of the charges.