

## **Blue Ridge Judicial Circuit Pretrial Diversion Program Application Packet**

### **Pretrial Diversion Program Instructions**

#### *Instructions for Attorneys*

1. Email the completed application to [pretrialdiversion@cherokeecountyga.gov](mailto:pretrialdiversion@cherokeecountyga.gov).
2. Once defendants are accepted into the pretrial diversion program, attorneys are notified of terms and conditions, program fees, and any required restitution. Attorneys are also notified by rule nisi of Stinson plea dates.
3. Prior to the Stinson plea, attorneys and participants must complete all paperwork and bring the original documents to court. No payment is required at this time.

#### *Instructions for Participants*

1. Email the completed application to [pretrialdiversion@cherokeecountyga.gov](mailto:pretrialdiversion@cherokeecountyga.gov) or deliver it to the District Attorney's Office, Cherokee County Justice Center, 90 North Street, Suite 390, Canton, GA 30114.
2. Do not include payment at this time.
3. You will be notified in writing of your acceptance or denial for the program.
4. Please note that you must have an attorney to enter this program. If you cannot afford an attorney, contact indigent defense (678-493-6190) to determine if you qualify for a court-appointed attorney.

### **Overview of the Program**

The pretrial diversion program is an opportunity for youthful and/or first-time offenders to earn a dismissal of eligible charges. After participants are accepted into the program, they enter a plea of guilty and sentencing is withheld.

For participants who successfully fulfill the special conditions set forth in the participant agreement, the State will file an order withdrawing the plea of guilty, dismissing the eligible charges, and restricting the record as to those charges. If participants are arrested for a criminal offense during the term of the program or fail to complete the terms and conditions of the program, they will be sentenced by the court on the plea of guilty.

Participants will be required to waive their right to withdraw their guilty plea and must have an attorney to enter this program. Those who cannot afford an attorney should contact indigent defense (678-493-6190) to determine if they qualify for a court-appointed attorney.

All participants will be required to submit to random drug and alcohol screenings through Cherokee Probation Services, located at 400 East Main Street, Canton, GA 30114, and will be required to log into the Drug Testing Randomizer every night after 8 p.m. to determine when to report for these screens.

After the Stinson plea, Cherokee Probation Services will email participants with a date for an intake appointment, during which they will be give an initial drug and alcohol screen.

Participants will be required to present a photo ID at the time of each screening.

All participants must test negative for alcohol and controlled substances (including CBD, THC, hemp, and marijuana) at the time of intake. Any positive screen will result in termination. All participants should ensure that they are in compliance with the requirements of the "Urine Abstinence Testing and Incidental Alcohol Exposure Contract" and the "Urine Abstinence Testing and Incidental Drugs of Abuse Exposure Contract." These documents can be found under "forms" on the Cherokee Probation Services website.

An administrative fee of \$405, a court-appointed attorney fee of \$400 (if applicable), and all restitution owed (if applicable) must be paid in full prior to the scheduled intake appointment with Cherokee Probation Services. Payment can be made by certified check or money order payable to Cherokee County Clerk of Courts, or online at [cherokeecotix.com](http://cherokeecotix.com). No installment payments will be accepted under any circumstance unless approved by the District Attorney. Proof of payment must be taken to the intake appointment.

Participants in Track I must submit to random drug and alcohol screenings throughout the program at a cost of \$361 (for the 9-month program) or \$480 (for the 12-month program). This fee is payable in full at the time of intake.

Participants in Track II must submit to random drug and alcohol screens, not to exceed 12 screens during the course of the program. Each screen will cost \$25. Track II participants must pay \$25 at the time of intake for the initial screen.

Payment for all drug and alcohol screens is accepted by credit or debit card, or by money order made payable to Cherokee Probation Services.

All participants must undergo a substance abuse evaluation. Information on how to schedule the evaluation will be provided to the participant at the intake appointment. Participants are required to attend any recommended treatment outlined in the evaluation report. The evaluation and treatment will be at participants' own expense. Participants must begin recommended treatment within 30 days of entering this program and within 10 days of completing the substance abuse evaluation.

A charge of driving under the influence (DUI) will not be dismissed after completion of this program. Other charges in the same indictment or accusation will not be dismissed until the DUI charge has been resolved by agreement. If there is no agreement as to the resolution of the DUI (i.e. a negotiated plea, reduction, or dismissal), then all charges will be referred to the assigned court for further prosecution. In no event will the State agree to litigate the DUI charge while dismissing the remaining charges. At the discretion of the District Attorney's Office, other charges may be ineligible for the pretrial diversion program.

Record restriction of criminal history information for charges that are dismissed due to a successful completion of the pretrial diversion program is controlled by O.C.G.A. § 35-3-37(h)(2)(A). Participants and their attorneys should consult this code section to determine whether or not the record of their arrest can be restricted. In cases where a participant is required to be sentenced on a charge, DUI for example, the record of the eligible pretrial diversion program offenses may not be restrictable under O.C.G.A. § 35-3-37(h)(2)(A).

The documents included in this packet may be amended or supplemented at any time at the discretion of the District Attorney's Office.

## Pretrial Diversion Program Application

Date of referral: \_\_\_\_\_ Date of arrest: \_\_\_\_\_

Indictment or warrant number: \_\_\_\_\_ Defense attorney: \_\_\_\_\_

### *Information to be completed by applicant*

Applicant's full name: \_\_\_\_\_ Race/gender: \_\_\_\_\_

DOB: \_\_\_\_\_ SSN: \_\_\_\_\_ County of residence: \_\_\_\_\_

Current residential address: \_\_\_\_\_

Is applicant currently incarcerated? \_\_\_\_\_ (Y/N) Where: \_\_\_\_\_

Is applicant currently on probation? \_\_\_\_\_ (Y/N) If so, what and where: \_\_\_\_\_

Current employer name and address: \_\_\_\_\_

Highest level of education completed: \_\_\_\_\_

Has applicant participated in any pretrial diversion program? \_\_\_\_\_ (Y/N)

If so, when: \_\_\_\_\_ Where: \_\_\_\_\_ Offense: \_\_\_\_\_

Was program completed? \_\_\_\_\_ (Y/N) Completion date: \_\_\_\_\_

No. of previous arrests: \_\_\_\_\_ No. of misdemeanor convictions: \_\_\_\_\_ No. of felony convictions: \_\_\_\_\_

Any pending charges? \_\_\_\_\_ (Y/N) If so, what and where: \_\_\_\_\_

Any previous history of substance abuse? \_\_\_\_\_ (Y/N) If so, list all substances: \_\_\_\_\_

Any previous treatment? \_\_\_\_\_ (Y/N) If so, when and where: \_\_\_\_\_

Currently taking medication? \_\_\_\_\_ (Y/N) If so, provide information below.

Medication	Dosage/Frequency	Reason for Medication

Provide last date of use of marijuana, CBD, hemp, alcohol, or controlled substance. For THC, provide the type/method of consumption:

Substance	Last Usage Date	How long have you been using the substance?

## Pretrial Diversion Program Applicant Certification

*Applicants should complete this page. Do not submit application unless each of these can be checked truthfully.*

- ☐ I understand that the Pretrial Diversion Policy and Procedure Manual can be found online at [www.cherokeecountyga.gov/District-Attorneys-Office](http://www.cherokeecountyga.gov/District-Attorneys-Office) under the heading “Pretrial Diversion” and that I should consult that document if I have any questions about this program.
- ☐ I am prepared to enter a plea of guilty to the charges, and I understand that I will NOT be sentenced, but given an opportunity to successfully complete this program to earn a dismissal of eligible charges and a record restriction.
- ☐ I am prepared to pay the \$405 administrative fee prior to my intake appointment with Cherokee Probation Services.
- ☐ If on Track I, I am prepared to pay \$336 or \$480 drug screening fee on the date of my intake appointment. If on Track II, I am prepared to pay \$25 for the initial drug screen at the intake appointment, and \$25 every time I am called in for drug testing. I understand that based on my test results, I may be required to wear a sweat patch at my own expense for an additional cost of \$50 per patch. I understand that a sweat patch may be worn no longer than 10 consecutive days, and I must wear the sweat patch until I have two consecutive negative urine drug screens. I am prepared to pay \$50 per sweat patch if required. Failure to pay the required fees may result in termination.
- ☐ Out of county travel *may* be approved at the discretion of the Probation Officer. If approved, I am prepared to report for a drug and alcohol screen the day immediately following return from travel and pay an additional \$25 for this screen.
- ☐ If I have a court-appointed attorney, I am prepared to pay a \$400 attorney’s fee, prior to my intake appointment, or other appointed attorney’s fee amount communicated to me if that amount differs from the standard fee.
- ☐ I have discussed with my attorney whether restitution to any victim will be required, and I will be prepared to pay such restitution in full to the Clerk of Courts prior to my intake appointment.
- ☐ I have a valid, current, state-issued identification card.
- ☐ I have a permanent address within the State of Georgia and am willing and able to report to the Cherokee Probation Services for drug screening when instructed to do so.
- ☐ I understand that I must provide proof of valid prescriptions to Cherokee Probation Services for all prescribed medications. Failure to do so may result in termination. I understand that I am not permitted to take prohibited over-the-counter medications outlined in the “Urine Abstinence Testing and Incidental Alcohol Exposure Contract.”
- ☐ I understand that I must test negative for alcohol and controlled substances (including CBD, THC, hemp, and marijuana) at the time of intake, and understand that a positive drug screen will result in termination.
- ☐ I have read the “Urine Abstinence Testing and Incidental Alcohol Exposure Contract” and the “Urine Abstinence Testing and Incidental Drugs of Abuse Exposure Contract” provided by Cherokee Probation Services, and I understand what substances I cannot take when in the program.
- ☐ I understand that record restriction of criminal history information for charges that are dismissed due to a successful completion of the pretrial diversion program is controlled by O.C.G.A. § 35-3-37(h)(2)(A). I understand that my attorney and I should consult this code section to determine whether or not the record of my arrest can be restricted. I understand that if my disposition requires me to be sentenced on a charge, DUI for example, the record of the eligible PDP offenses may not be able to be restricted under O.C.G.A. § 35-3-37(h)(2)(A).

By signing below, I certify that each of the above statements is true and correct. I understand that should any of these statements be found to be incorrect my application to enter this program will be denied.

Participant

Date

Defense Attorney (if applicable)

Date