

Hidalgo County First Time DWI Offenders Pretrial Diversion Program Application (Updated November 12, 2015)

I. Information

NOTE: Section I is to be completed by the ATTORNEY OF RECORD not the Applicant.

1. Defendant's Name: _____
2. Cause Number: CR-_____
3. Case is currently assigned to: County Court at Law No. _____

ALL APPLICANTS: MUST submit to a urinalysis at the Defendant's expense. Urine exam cost is \$20.00 payable to the Hidalgo County CSCD.

ALL APPLICANTS: MUST provide a valid Texas Department of Public Safety driver's license or an occupational driver's license order with the application. MUST provide a current automobile insurance identification card listing the defendant as an insured driver or a "Non Owned Cars Used by Name Insured Only" policy. **MUST provide a current Texas Department of Public Safety driver's license eligibility form. ****

ALL APPLICANTS: MUST be in full compliance with any and all bond conditions originally imposed by the Magistration Court.

ALL APPLICANTS: MUST provide stamp filed copies of the Waiver of Speedy Trial and Code of Criminal Procedure Article 39.14 Discovery request to the Criminal District Attorney's Office.

Attorney of Record

Date

State Bar of Texas ID Number

Email Address

Address, City, State, Zip Code

Telephone Number

II. The Program

The Hidalgo County Criminal District Attorney's Office offers the First Time DWI Offenders Pretrial Diversion Program as an alternative to prosecution to certain first time offenders who meet program requirements. **The program is designed to give eligible applicants an opportunity to learn from and make amends for their mistakes.**** It diverts offenders from the traditional criminal justice processing into a program of supervision and services administered by the Hidalgo County Community Supervision and Corrections Department (Adult Probation). **Additionally, the program is designed to give the offender in trouble for the first time a chance to rehabilitate him (or herself) without the stigma of a criminal conviction.**** Participation in the program shall be limited to a maximum of two (2) years.

III. Principals of Operation

Participation in the program by the Defendant is voluntary. The Defendant will enter into an agreement with the Criminal District Attorney's Office, which includes voluntarily waiving some of his/her, constitutional rights. The agreement is finalized upon signatures of the prosecutor, the Defendant and the Defendant's attorney.

The State reserves the right to review each case for qualification and may choose to deny participation in the program based on circumstances unstated above when review of the facts suggest inclusion in the program would be inappropriate.

This program is subject to cancellation at any time at the discretion of the Hidalgo County Criminal District Attorney's Office.

IV. Eligibility Criteria

The nature of the offense and the circumstances surrounding the commission of the offense are major considerations in the decision to defer prosecution, as is the potential for harm to the community by the Defendant.

In addition to the above, the following are additional terms for eligibility into the program:

1. Defendant's arrest must have occurred on or after March 1, 2015.
2. Defendants who have no prior DWI arrests/convictions or any other convictions.
3. Defendants who have never participated in any Pretrial Diversion Program.
4. There cannot be a vehicle collision (accident).
5. There must have been no children in the vehicle at the time of the offense.
6. At the time of the arrest, no other criminal conduct, other than traffic violations were committed.
7. Defendant must not have open warrants in any jurisdiction.
8. Defendant cannot have substance abuse issues or other conditions which should be monitored in a formal probation environment, or the Hidalgo County Drug Court or DWI Court.

V. Terms and Conditions

1. Defendant's attorney shall submit the First Time DWI Offenders Pretrial Diversion Program application to the Criminal District Attorney's Office located at 100 East Cano, 2nd Floor in Edinburg, Texas within **TWENTY (20) BUSINESS DAYS FROM THE DATE OF ARRAIGNMENT OR THE DATE THE WAIVER OF ARRAIGNMENT WAS FILED.**
2. Defendant MUST accept full responsibility for the offense by entering a plea of guilty to the DWI charge.
3. Defendant must pay the \$500.00 non-refundable program fee. Payment is due prior to being placed in the program. **
4. Defendant must at his/her own expense, agree to alcohol monitoring via mobile alcohol monitoring device, which is mandatory and may not be waived regardless of blood alcohol level. This mobile alcohol monitoring device must be maintained by the Defendant throughout the ENTIRE term of the Pretrial Diversion Program commencing INSTANTER from the date of placement.
5. Should a violation occur while on the program, the Criminal District Attorney's Office, continuing Court of Jurisdiction and the defense attorney will be notified. The Criminal District Attorney's Office will orally and through written motion recommend the Defendant be removed from the program and will also request the Defendant be sentenced immediately.
6. Upon successful completion of the program, the Hidalgo County Community Supervision and Corrections Department Court Officer shall notify the Criminal District Attorney's Office. The prosecutor will check the criminal history of the Defendant to determine if there have been any additional arrests. If there are no new arrests and all terms of the agreement have been followed, the prosecutor will file a motion and order for dismissal of the criminal action.
7. Defendant must complete a DWI education program which complies with Article 42.12, Section 13, Code of Criminal Procedure.
8. Defendant must timely pay all fees associated with the First Time DWI Offenders Pretrial Diversion Program. **
9. Defendant may not consume alcohol while on the program and is subject to random urinalysis.
10. All other standard conditions apply, including monthly face to face reporting.
11. Upon request of the Criminal District Attorney's office, the Defendant will participate in an Addiction Severity Index (ASI) evaluation administered by the Hidalgo County Community Supervision and Corrections Department (Adult Probation).
12. Defendant must sign and execute Defendant's Waiver of Trial by Jury, Defendant's Waiver of Speedy Trial and voluntarily waive his/her right to have their criminal record expunged from the Hidalgo County District Attorney's Office database. **
13. If Defendant is represented by a court appointed attorney he/she must pay \$250.00 to the Office of the County Clerk of Hidalgo County to reimburse the county for compensation paid by the county to the court appointed attorney. If the defendant fails to pay the \$250.00 reimbursement fee, he/she will be terminated from the program for non-compliance with the terms and conditions of said program. **

VI. Personal Data Sheet

Defendant's Personal Information

First Name: _____ Last Name: _____

Physical Address: _____
Apt. # City State Zip Code

Mailing Address: _____
Apt. # City State Zip Code

County of Residence: _____

Home Phone: (____) _____ Cell Phone: (____) _____

Date of Birth: ____/____/____ Place of Birth: _____ Sex: Male/Female

Highest Grade Completed: _____ Marital Status: _____

Number of Dependents: _____ SS#: ____-____-____ Driver's License #: _____

DL State: _____ DL Expiration: _____

Are you currently on any prescription medication(s)? (Circle) **YES** **NO**

If yes, please list medication(s): _____

Employment Information

Employment Status (circle one): Full-Time Part-Time Seasonal Student Retired
Homemaker Disabled Unemployed

Employer: _____ Position/Title: _____

Address: _____
Street Suite # City State Zip Code

Work Phone: (____) _____ Supervisor's Name: _____

If UNEMPLOYED, HOW LONG? _____

VII. Acknowledgement of the Defendant

If I am accepted into the First Time DWI Offenders Pretrial Diversion Program, it is my understanding I will abide by all terms and conditions of the program listed on page 3 as explained to me by my attorney.

I authorize the Criminal District Attorney's Office to conduct an investigation to determine my eligibility for the program. I hereby submit my application to be considered as a participant. **

I have been advised of my constitutional rights and I will knowingly and voluntarily waive the following rights: **

I understand I have a right to a speedy trial of the offense charged against me, and I knowingly and voluntarily and irrevocably give up and abandon my right to a speedy trial of the offense charged against me in the above cause upon acceptance into the First Time DWI Offenders Pretrial Diversion Program. **

I understand I have a right to a trial by jury on both issues of guilt/innocence and punishment on the offense charged against me in the above cause, and I knowingly and voluntarily and irrevocably give up and abandon my right to a trial by jury upon acceptance into the First Time DWI Offenders Pretrial Diversion Program. **

I understand I have the right under Article 55.01, Code of Criminal Procedure to request that the record of my arrest for the offense be expunged if I successfully complete the First Time DWI Offenders Pretrial Diversion Program, DWI Court or Alternate Dispute Resolution (ADR) agreement. As a condition of participation in the First Time DWI Offenders Pretrial Diversion Program, I freely and voluntarily waive my right to have my criminal record (to include the record of my arrest, documents and entries) expunged from the Hidalgo County Criminal District Attorney's Office database. [Effective November 12, 2015]. **

ALL APPLICANTS: MUST attend Pretrial Diversion Program orientation at the Hidalgo County Courthouse Auditorium at a date and time set by the Criminal District Attorney's Office. Attendance is mandatory and failure to attend will result in the denial of the pretrial diversion application.

DEFENDANT'S NAME (PLEASE PRINT)

DATE

DEFENDANT'S SIGNATURE

Military Service, if applicable

Branch _____ Current Service Status _____

Discharge Date _____ Discharge Type _____

___ DD 214 Form (Department of Defense Military Discharge) attached

___ Eligible for or receiving Veteran's Administration Benefits

___ Mental health diagnosis of post-traumatic stress disorder

Other mental health condition (service-connected) _____

Other service-connected injury/disability _____

Injury/Disability _____

PRETRIAL DIVERSION PROGRAM SCREENING REFERRAL

DEFENDANT: _____

TELEPHONE NUMBER(S): _____

CAUSE NUMBER: _____

COURT: _____

You have been instructed to report for an Addiction Severity Index evaluation. You will be contacted by the Hidalgo County Community Supervision and Corrections Department (Adult Probation) at the telephone number(s) provided to schedule an interview. The interview will be conducted at 3100 South Business Highway 281 in Edinburg, Texas between the hours of 8:00 am and 3:45 pm. Failure to comply with the interview may result in denial into the Pretrial Diversion Program.

NO. _____

THE STATE OF TEXAS

X

V.

X

OF

X

HIDALGO COUNTY, TEXAS

**DEFENDANT'S WAIVER OF RIGHT TO EXPUNCTION
UNDER ARTICLE 55.01 C.C.P.**

COMES NOW the above named Defendant in the above entitled and numbered cause and would show the Court that I understand my right under Article 55.01 C.C.P. to an expunction of the record of my arrest and documents and entries relating thereto upon dismissal of the case by the State, and I knowingly and voluntarily waive my right to have my criminal record (to include the record of my arrest, documents and entries) expunged from the Hidalgo County Criminal District Attorney's Office database.

Signed the _____ day of _____, 20____.

ATTORNEY FOR THE DEFENDANT

DEFENDANT



NAME: _____

CR-_____ Offense _____

CR-_____ Offense _____

Offense Date: _____

Arraignment Date: _____

Application Due: _____

- 1. Completed packet
- 2. Urinalysis Receipt or Results
- 3. Driver's License or Occupational License
- 4. Texas DPS Eligibility Form
- 5. Texas Liability Insurance Card (minimum three month policy)
- 6. E-filed CCP 39.14 Discovery Request
- 7. E-filed Waiver of Speedy Trial
- 8. E-filed Waiver of Right to Expunction

Defense Attorney _____

NOTES:

Next Court Date: _____

CAUSE NO. CR-__-_____-

STATE OF TEXAS

* IN COUNTY COURT AT LAW #_

*

v.

*

*

* HIDALGO COUNTY, TEXAS

WAIVER OF ART. 39.14 DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANT _____, hereinafter referred to as DEFENDANT, files this WAIVER OF ART. 39.14 DISCOVERY, DEFENDANT would show the following:

I.

DEFENDANT, after having been explained by counsel that his/her Waiver is in accord with a Pre-Trial Diversion request, signifies his/her waiver of Texas CCrP Art. 39.14 discovery demand.

WHEREFORE, PREMISES CONSIDERED, the DEFENDANT prays that the court accept this Waiver.

Respectfully submitted,

_____ (Atty/firm name)

_____, TX 785__

956 ____ - ____

fax: 956 ____ - ____

_____@_____.com

_____ (defendant sign)

_____ (print name of defendant)

By: _____ (atty sign)

_____ (atty print name)

SBT _____

Counsel for _____

Certificate of Service

I, _____, affirm that a true and correct copy of the foregoing instrument has been delivered to:

Hidalgo County District Attorney
100 E. Cano
Edinburg, TX 78539

_____@da.co.hidalgo.tx.us (prosecutor email)

_____@da.co.hidalgo.tx.us (ADA legal asst email)

_____ (atty sign)

_____ (atty print name)

CAUSE NO. CR-__-_____-

STATE OF TEXAS

* IN COUNTY COURT AT LAW #_

*

v.

*

*

* HIDALGO COUNTY, TEXAS

WAIVER OF RIGHT TO EXPUNCTION UNDER ART. 55.01

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANT _____, hereinafter referred to as DEFENDANT, files this WAIVER OF RIGHT TO EXPUNCTION UNDER ART.55.01, DEFENDANT would show the following:

DEFENDANT, after having been explained by counsel that his/her Waiver is in accord with a Pre-Trial Diversion request, is waiving an order of expunction to the Hidalgo County District Attorney's Office, including arrest record, documents and entries, and signifies his/her limited waiver of Texas CCrP Art. 55.01 with his signature, below.

WHEREFORE, PREMISES CONSIDERED, the DEFENDANT prays that the court accept this Waiver.

Respectfully submitted,

_____ (Atty/firm name)

_____, TX 785__

956 ____ - ____

fax: 956 ____ - ____

_____@_____.com

_____ (defendant sign)

_____ (print name of defendant)

By: _____ (atty sign)

_____ (atty print name)

SBT _____

Counsel for _____

Certificate of Service

I, _____, affirm that a true and correct copy of the foregoing instrument has been delivered to:

Hidalgo County District Attorney
100 E. Cano
Edinburg, TX 78539

_____ [@da.co.hidalgo.tx.us](mailto:_____@da.co.hidalgo.tx.us) (prosecutor email)

_____ [@da.co.hidalgo.tx.us](mailto:_____@da.co.hidalgo.tx.us) (ADA legal asst email)

_____ (atty sign)

_____ (atty print name)

CAUSE NO. CR-__-_____-

STATE OF TEXAS

* IN COUNTY COURT AT LAW #_

*

v.

*

*

HIDALGO COUNTY, TEXAS

*

WAIVER OF SPEEDY TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANT _____, hereinafter referred to as DEFENDANT, files this WAIVER OF SPEEDY TRIAL, DEFENDANT would show the following:

I.

DEFENDANT after having been explained by counsel that he/she may retain the right to a speedy trial voluntarily and intelligently waives said right upon contemplation of alternative resolution with the Hidalgo County District Attorney.

WHEREFORE, PREMISES CONSIDERED, the DEFENDANT prays that the court accept this Waiver.

Respectfully submitted,

_____ (Atty/firm name)

_____, TX 785__

956 ____ - ____

fax: 956 ____ - ____

_____@_____.com

_____ (defendant sign)

_____ (print name of defendant)

By: _____ (atty sign)

_____ (atty print name)

SBT _____

Counsel for _____

Certificate of Service

I, _____, affirm that a true and correct copy of the foregoing instrument has been delivered to:

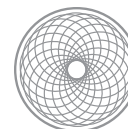
Hidalgo County District Attorney
100 E. Cano
Edinburg, TX 78539

_____@da.co.hidalgo.tx.us (prosecutor email)

_____@da.co.hidalgo.tx.us (ADA legal asst email)

_____ (atty sign)

_____ (atty print name)



Lennard K. Whittaker, Attorney

Practitioner's notes

Date 1/29/22

Re: 1st Time DWI PTD program

<https://txapps.texas.gov/txapp/txdps/dleligibility/login.do>

While the application states that an accident makes one ineligible for this PTD program, in practice, HCDA considers and sometimes accepts applicants who were involved in an accident. HCDA stated at the CLE that it considers the gravity of the accident, the payment of restitution, the existence of insurance, and possible injuries into its analysis.

Court overseer: Sergio Valdez, Judge, County Court at Law #7

P.O. Box 720876
McAllen, TX 78504
T 956 821 9918
F 866 596 6190
teksus@mac.com
www.whittaker.law
www.criminaltrialstrategist.com