

# Guidelines for Brazoria County District Attorney Pretrial Diversion Program

Acceptance into the program is not guaranteed. Exceptions to these guidelines and program eligibility can be made based upon any relevant factors or circumstances presented in a participant's application. Exceptions will only be made in extraordinary situations.

If additional information is required by the DA's Office, the attorney of record will be contacted with a request.

No reason need be given for exclusion. It is within the discretion of the DA's Office. There is no right to participate in the PTD program.

There is no appeal/review from exclusion into the PTD program upon notification thereof.

## Who is eligible?

- A participant charged with an eligible misdemeanor or felony offense with minimal criminal history.
- The participant must be a U.S. citizen or legal resident.
- The DA's Office will review and consider all factors noted in the application materials.
- The DA's Office will seek input from the victim (if any) when reviewing the application packet.
- All cases will be reviewed on an individual basis to determine whether any particular participant is eligible.

## Who is not eligible?

- A participant must not have had any previous probation revocations.
- A participant who is charged with a sex offense or any other offense, as determined by the DA's office to be inappropriate.
- A participant who is charged with multiple non-contemporaneous misdemeanor offenses.
- A participant who has victimized a vulnerable member of the community, including but not limited to, the elderly, the disabled, or a child.
- A participant who has used or exhibited a deadly weapon during the commission of the offense.

## How Does the Participant Apply?

- The attorney of record must have a good telephone number and email address so they can send and receive notifications and documentation.
- The attorney must submit a representation letter with the application.
- The initial application form must be submitted to the District Attorney's Office by the attorney of record.
- The application must be completed by the participant and his or her attorney of record.
- The application fee is \$500.00. This fee must be paid at the time the application is approved. ***Cashier's check, money order or check will be accepted.***
- The check must be payable to: Brazoria County. ***The case number must accompany the payment.***
- The application must be accurate and fully completed upon submission. ***The DA's Office will contact the attorney representing the participant upon receipt of an incomplete or***

***inaccurate application for re-submission.*** The Brazoria County Criminal District Attorney's Office does not have the resources to help complete or correct any submissions.

- The DA's Office will respond within 30 days of receipt of the participant's application with the decision to approve or disapprove participation in the Pretrial Diversion Program.
- Notification of acceptance into the PTD Program and further requirements will be sent to the attorney of record.
  - Further requirements include (to be scheduled by the CSCD):
    - Clinical Assessment
    - Texas Risk Assessment System (Risk/Needs Assessment)

### **What is required in the Application Packet of the Participant for Pretrial Diversion?**

- The participant must provide proof of employment, proof they are actively seeking employment, school enrollment, or some combination thereof unless otherwise exempted upon demonstrating good cause.
- Must be willing to waive their right to a speedy trial during the pendency of acceptance into the program.
- Must be willing to agree the statute of limitations will be tolled during the pendency of acceptance into the program and the participation in the PTD program.
- ***ALL RESTITUTION MUST BE PAID IN FULL PRIOR TO ENTERING THE PTD PROGRAM***

***None of the foregoing is negotiable for the purpose of participation in the PTD Program and must be complied with in their entirety.***

### **What will supervision of the participant involve if accepted into the PTD Program?**

- Upon acceptance into the program, the participant will be supervised by the Brazoria County Pre-Trial Diversion Supervision Unit.
- The participant must comply with recommendations given by the Pre-Trial Diversion Supervision Office. This is mandatory and non-negotiable.
- The DA's Office reserves the right to make additional recommendations regarding the participant's supervision to the Brazoria County Pre-Trial Diversion Supervision Unit.
- Supervision will range from six (6) to eighteen (18) months, dependent upon the offense, criminal history, participants' rehabilitation needs, and/or other conditions the D.A.'s or CDC Office deem appropriate.
- Required Fees:
  - Monthly Fee – \$60.00 payable to Brazoria County PTD. Payment shall be made at the CSCD office
  - UA Fee – \$20.00 each UA test
  - The participant may also incur additional costs for any counseling, classes, urinalysis testing, drug treatment, etc., that the CSCD deems necessary for the rehabilitation of the participant.
- The CSCD Pre-Trial Unit will notify the DA's Office of any violation of the terms and conditions of supervision.
- The DA's Office reserves the right to terminate the participant's supervision based upon **any** violation of the terms and conditions, regardless of its perceived seriousness, at **any** time.
- If the DA's Office decides to terminate the participant's supervision in the PTD program, the participant and the attorney of record will be notified.
- There is no right to a termination hearing before the Court.

- The decision to terminate the participant's supervision in the PTD Program is not appealable or reviewable but within the sole discretion of the Brazoria County Criminal District Attorney's Office.

**What happens when the participant successfully fulfills all the terms and conditions of the Pre-Trial Diversion Program?**

- The Brazoria County Pre-Trial Diversion Supervision Unit will notify the DA's Office of the participants completion of the program.
- The DA's Office will tender a dismissal to the Court in the participant's case.
- The DA's Office will not oppose the participant's immediate Petition for Expunction.
- The DA's office will keep all records and reports by agreement of all parties.

**These guidelines are subject to change at any time at the discretion of the Brazoria County Criminal District Attorney's Office and the Brazoria County Community Supervision and Corrections Department.**

**Carefully consider all of the above before submitting an application and agreeing to participate in the Pretrial Diversion Program.**