

BLUE RIDGE JUDICIAL CIRCUIT PRETRIAL DIVERSION PROGRAM (PDP)

PRETRIAL DIVERSION PACKET INSTRUCTIONS

The Pretrial Diversion Program Packet contains the following documents:

- Overview of Pretrial Diversion Program
- Participant Application
- Applicant Certification
- Petition for Pretrial Diversion
- Waivers
- Stinson Forms

FOR ATTORNEYS	FOR PARTICIPANTS
<p>If you are an attorney completing this application on behalf of a client, follow the directions below:</p> <ol style="list-style-type: none"> 1. Complete and submit the entire packet via email to the Pretrial Diversion Program Coordinator in the Office of the District Attorney at this address: PretrialDiversion@cherokeega.com. If the case has been indicted or accused, you must include the Indictment or Accusation number on each applicable document. If the case has not been indicted or accused, you must include the warrant number. 2. Retain the original documents and bring them to the next scheduled appointment/plea if the client is accepted into the program. Do not include payment at this time. 3. Defense counsel will be notified in writing of the defendant's acceptance into or denial from the program. If accepted, counsel will be notified by rule nisi of the date and time of the participant's scheduled Stinson plea date, drug and alcohol screening date, and program intake date as well as the amount of fees, and restitution and/or appointed attorney's fees owed, if any. It is the responsibility of the participant and the defense attorney to ensure that the defendant appears at the scheduled times. Please note that the defendant MUST TEST NEGATIVE at the initial screening date for alcohol, marijuana, CBD, controlled substances and all items as outlined in the testing contracts. A positive test result will result in termination from the program. 	<p>If you are a defendant and completing this application for yourself, follow the directions below:</p> <ol style="list-style-type: none"> 1. Submit the entire completed application packet to the Pretrial Diversion Program Coordinator by email to PretrialDiversion@cherokeega.com or by dropping off the packet here: <p style="margin-left: 40px;">The Office of the District Attorney Cherokee County Courthouse 90 North Street, Suite 390 Canton, Georgia 30114</p> <p style="margin-left: 40px;">Be sure to include on each document the docket number that is listed on the cover letter.</p> 2. Do not include any payment at this time. 3. You (the defendant) will be notified in writing of your acceptance into or denial from the program. If accepted, you will be notified in writing of the date and time of the scheduled Stinson plea date, drug and alcohol screening date, and program intake date as well as the amount of fees, and restitution and/or appointed attorney's fees owed, if any. It is the responsibility of you, and your attorney if any, to ensure that you appear at the scheduled time. Please note that you MUST TEST NEGATIVE at the initial screening date for alcohol, marijuana, CBD, controlled substances and all items as outlined in the testing contracts. A positive test result will result in termination from the program. 4. You must keep a copy of these materials for your records. Copies will not be provided at orientation except by request.

BLUE RIDGE JUDICIAL CIRCUIT OVERVIEW OF PRETRIAL DIVERSION PROGRAM

Applications for acceptance into the Blue Ridge Judicial Circuit Pretrial Diversion Program must be made pursuant to the instruction contained in this document, and should be directed to the Pretrial Diversion Program Coordinator.

The Blue Ridge Judicial Circuit Pretrial Diversion Program is an opportunity for youthful and/or first-time offenders through the criminal justice system to earn a dismissal of their eligible charges upon completion of special terms and conditions. Under the terms of the Program, Participants must enter a plea of guilty to one or more of the charges at the time of entering the program; however, sentencing will be withheld. Participants who successfully abide by and fulfill the special conditions, which are set forth in written Participant Agreement/Special Conditions, will return to court and the State will, on the record, move to withdraw the plea of guilty and dismiss the eligible charges and the record for those charges will be restricted. However, should a Participant be arrested for a criminal offense during the term of the program or fail to fully complete the Program terms and conditions, he/she will come back to court and be sentenced by the court on the plea of guilty.

Participants entering this Program will be required to waive their right to withdraw their guilty plea; therefore, any Participant should speak to an attorney before entering this Program.

All Participants will be required to submit to drug and alcohol screenings through **Cherokee Probation Services**, located at **959 Marietta Highway**, Canton, Georgia 30114, and will be required to **log in to the Drug Testing Randomizer every night after 8:00pm** to determine when to report for said screens.

The initial drug and alcohol screen will be on the **same day as the entry of your Stinson plea, following paperwork completion with Cherokee Probation Services**. The cost for this screen will be **\$25** and shall be in the form of a **money order** made payable to **Cherokee Probation Services**. Participants will be required to present a picture ID at the time of each screening. If a Participant tests negative for alcohol or drugs, then he/she will appear **for an intake appointment with probation as scheduled**.

Any Participants testing positive will be contacted by the Program Coordinator as to their continued eligibility for the program. All participants **must** test negative for alcohol and controlled substances and marijuana (including CBD and hemp) at the time of orientation. As a general rule, any positive screen will result in **termination**. All Participants should read and ensure 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 found on the Pretrial Diversion webpage.

An administrative fee of **\$405** will be assessed and must be paid **in full** by certified check, money order, or attorney's escrow check made payable to the **Cherokee County Clerk of Court prior to the scheduled intake appointment with probation**. **Participants must take the receipt to the intake appointment**.

Participants with a court appointed attorney will be required to pay **\$300** for attorney's fees and those fees must be paid **in full** by certified check, money order, or attorney's escrow check made payable to the **Cherokee County Clerk of Court prior to the scheduled intake appointment with probation**. **Participants must take the receipt to the intake appointment**. You will be notified in advance if your attorney is requesting more than the standard \$300.

Participants owing restitution to a victim will be provided with the amount of restitution prior to **intake with the probation office**. The restitution amount must be paid **in full** by certified check, money order, or attorney's escrow check made payable to the **Cherokee County Clerk of Court prior to the scheduled intake appointment with probation**. **Participants must take the receipt to the intake appointment**.

All moneys payable to the **Cherokee County Clerk of Court** may be combined into one certified check, money order, or attorney's escrow check.

Participants accepted and placed in **Track I (Drug Track)** will be required to submit to drug and alcohol screenings throughout the program at a cost of **\$336** (this cost is in addition to the \$25 for the initial drug screening) and said fee shall be payable in full at **intake with probation** in the form of a **money order** made payable to **Cherokee Probation Services**.

Track I Participants **must** undergo a substance abuse evaluation, at their own expense, **prior to their scheduled intake date with probation**. In addition, the evaluation report must be provided to the **Probation Officer prior to the intake date**. Participants are required to attend any recommended treatment outlined in the evaluation report at their own expense.

Participants in **Track II** will be required to submit to a minimum of **three** and a maximum of **nine** random drug screens during the course of the program through **Cherokee Probation Services**. Participants will be **called to test by the Probation Officer at random**. The cost for each screen will be **\$25** payable by money order to **Cherokee Probation Services** at the time of screening.

All payments due for program fees, attorney's fees, or restitution must be paid in full **prior to the scheduled intake date with Cherokee Probation Services, and receipts must be provided to probation at the intake appointment**. *No installment payments will be accepted under any circumstances unless approved in writing by the District Attorney*. Participants who appear without such **receipts** will not be allowed to attend **intake** or begin participation until all payments due are made in full.

A charge of driving under the influence (DUI) will not be dismissed due to 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. 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.

The documents included in this packet may be amended or supplemented at any time in the discretion of the District Attorney's Office; therefore, a new packet must be obtained for each Participant. **Copies should not be kept for future use.**

BLUE RIDGE JUDICIAL CIRCUIT PRETRIAL DIVERSION PROGRAM (PDP)

PARTICIPANT APPLICATION

Date of referral: _____ Requested by: _____
 Indictment or warrant number: _____ Date of arrest: _____
 ADA: _____ Defense attorney: _____
 Case status: _____ Restitution: _____

APPLICANT INFORMATION

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:

Medication	Dosage/Frequency	Reason for Medication

Last date of usage of any marijuana, CBD, hemp, alcohol, or controlled substance:

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

**BLUE RIDGE JUDICIAL CIRCUIT
PRETRIAL DIVERSION PROGRAM**

APPLICANT CERTIFICATION

(Please check below. Do not submit this 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.CherokeeGa.com/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 the intake appointment with Cherokee Probation Services.**
- I am prepared to pay the **\$25** initial drug and alcohol screen on my testing date prior to **intake**;
- If on Track I, I am prepared to pay a **\$336** drug screening fee on the date of my **intake appointment with Cherokee Probation Services**; if on Track II, I am prepared to pay **\$25** every time I am called in for drug testing.
- 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 said screen.**
- I am prepared to pay the **\$300** attorney’s fee, **prior to the intake appointment with Cherokee Probation Services**, should I have a court-appointed attorney, or other appointed attorney’s fee amount communicated to me should that amount differ from the standard fee.
- I have either discussed with my attorney, or been advised by the Pretrial Diversion Program coordinator, whether restitution to any victim will be required, and I will be prepared to pay such restitution in full **prior to the intake appointment with Cherokee Probation Services.**
- I have a valid, current, state-issued identification card;
- I have a permanent address within the State of Georgia and will be able and willing to report to **Cherokee Probation Services** for drug screening when instructed to do so.
- I have discussed with my doctor any prescription medications that I take and I understand that I cannot take any medication, or other product, which may cause a positive drug screen.
- I understand that I **must** test negative for any alcohol, marijuana, any substance that tests similar to marijuana such as hemp or CBD, or controlled substance **on the date of my Stinson plea** in order to enter the program.
- I have read the Urine Abstinence Testing and Incidental Alcohol Exposure Contract **and** the Urine Abstinence Testing and Incidental Drugs of Abuse Exposure Contract found on the Pretrial Diversion web page and understand what substances I cannot take when in the program.

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

Defense Attorney (if applicable)

Date

Date

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

THE STATE OF GEORGIA

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CASE NO. /WARRANT NO.

v.

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Defendant

PETITION FOR PRETRIAL DIVERSION PROGRAM

Comes now, _____, defendant in the above-styled case, and shows the Court the following:

1.

Defendant is charged with the offense(s) of _____.

2.

Defendant further shows he/she is _____ years of age and has never plead guilty to nor been adjudicated guilty of a felony.

3.

Defendant has been advised of the Blue Ridge Judicial Circuit District Attorney's Pretrial Diversion Program and is able and willing to meet all criteria necessary to enter said program. The defendant has further been advised that he/she will be required to enter a plea of guilty to one or more of the eligible charges at the time of entering the program; however, sentencing will be withheld. Defendant has been advised that upon successful completion of the program, the defendant will return to Court and the State will, on the record, move to withdraw the plea of guilty and dismiss the eligible charges and the record for those charges will be restricted, except a charge of Driving Under the Influence. The defendant has been advised that if he/she fails to successfully complete the program, he/she will come back to court and be sentenced on the plea of guilty.

4.

The defendant understands that if he/she is not accepted into the program, prior to entry of a plea, this case will be returned to the normal criminal justice system for prosecution.

5.

The defendant understands his/her constitutional rights outlined below, and understands that he/she is required to waive certain of these rights in order to enter the program.

- The defendant understands that he/she has a right to assistance of counsel during a trial.
- The defendant understands that he/she has a right to plead **NOT GUILTY** to every charge filed against him/her.
- Defendant understand that if he/she pleads **NOT GUILTY** he/she would have a right to a speedy and public trial by a judge and jury.
- Defendant understands that if he/she pleads **NOT GUILTY** he/she would have a right to confront, that is to see, hear, question, and cross examine, the witnesses called to testify against him/her at trial.
- Defendant understands that if he/she pleads **NOT GUILTY** he/she would have a right to use the subpoena power of the Court to require the attendance of any witnesses on his/her behalf, whether they want to come or not.
- Defendant understands that if he/she pleads **NOT GUILTY** he/she would have the right to testify or not testify, as he/she chose, that he/she could not be required to testify and that if he/she does not testify the jury cannot take that as evidence against him/her.
- Defendant understands that if he/she pleads **NOT GUILTY** he/she would be presumed to be innocent and that before he/she could be convicted the prosecution will have the duty of proving his/her guilt beyond a reasonable doubt.
- Defendant understands that in the event he/she was convicted in a trial he/she would have the right to appeal his/her conviction.

6.

It is agreed that the defendant, if accepted into this program and if the defendant is appointed an attorney, will pay \$300 appointed attorney's fees, or other amount provided in advance as assessed on the defendant's behalf by the Office of Indigent Defense.

So moved this _____ day of _____, 20____.

Defendant

Defense Attorney

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

WAIVER OF RIGHTS

I, _____, understand that I am guaranteed by the United States and Georgia Constitutions the following rights:

1. A speedy trial;
2. A trial by jury;
3. The right to confront the witnesses against me;
4. The right not to incriminate myself or give any information which could be used against me;
5. The right to call witnesses and present evidence on my own behalf, and to use the power and process of the court to compel the attendance of such witnesses and evidence;
6. The right to have an attorney represent me at all stages of the criminal process,

and that as a condition of acceptance into, and participation in, the Pretrial Diversion Program, I hereby expressly waive (that is, give up) those rights.

I also understand that if I am not accepted in the Pretrial Diversion Program, or voluntarily withdraw from it, my waiver of the rights listed above will also be withdrawn. I also understand that any statements given by me as part of the Pretrial Diversion assessment process will not be used against me in later court proceedings should I voluntarily withdraw from the program.

This the _____ day of _____, 20____.

Defendant

Attorney for Defendant

**PRETRIAL DIVERSION PROGRAM
DISTRICT ATTORNEY'S OFFICE
BLUE RIDGE JUDICIAL CIRCUIT**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

RELEASE AND WAIVER

I, _____, hereby authorize the release of such confidential information as may be necessary for the District Attorney's Office to determine eligibility for the Pretrial Diversion Program. I agree to hold harmless, and relieve and release from any liability with regard to such information, the Pretrial Diversion coordinator and/or any other authorized representative of the District Attorney's Office.

I understand that the Pretrial Diversion Program is operated under the supervision of a sworn Assistant District Attorney, and that my acceptance into and participation in this program may require interaction with such person and other representatives of the District Attorney's Office without the presence of my attorney. I hereby expressly waive my right to have my attorney present during such interaction for the limited purpose of completing a program orientation, periodic status reports, and such other interaction as may be necessary to facilitate my participation in this program.

I also understand that any statements given by me as part of the Pretrial Diversion assessment process will not be used against me in later court proceedings should I voluntarily withdraw from the program.

This the _____ day of _____, 20____.

Defendant

Attorney for Defendant

**PRETRIAL DIVERSION PROGRAM
DISTRICT ATTORNEY'S OFFICE
BLUE RIDGE JUDICIAL CIRCUIT**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

ACKNOWLEDGMENT WAIVER OF FOURTH A MENDMENT RIGHTS

I, _____, having requested to participate in the Pretrial Diversion Program, and in consideration of the agreement by the State to allow such participation in lieu of traditional prosecution of my charged offense/s, hereby state the following:

- I understand that I have rights that protect me from unreasonable search and seizure.
- I understand that these rights are guaranteed by the Fourth Amendment to the United States Constitution, as well as the Constitution of the State of Georgia.
- I also understand that I can voluntarily give up these rights as part of an agreement to provide an alternative to traditional prosecution or incarceration.

As a condition of my participation in the Pretrial Diversion Program, I agree to the search of my person, property, place of residence, vehicle or personal effects at any time with or without a warrant, and with or without reasonable cause, when required by any law enforcement officer at any time during my participation in this program. I hereby give permission for such individuals to remove, forcibly if necessary, any locks or other hindrances which may prevent access to such places and property for the purpose of any such search. I consent to the use of any evidence seized during such a search in any prosecution that may arise from said search.

This the _____ day of _____, 20____.

Defendant

Attorney for Defendant

**PRETRIAL DIVERSION PROGRAM
DISTRICT ATTORNEY'S OFFICE
BLUE RIDGE JUDICIAL CIRCUIT**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____, having requested to participate in the Pretrial Diversion Program, hereby consent to communication, within or outside my presence, regarding my medical, psychological, or substance abuse history among any of the following individuals: any evaluator or counselor, physician, psychiatrist, or psychologist who participates in any counseling or treatment required as a condition of this program, any representative of the District Attorney's Office designated by the District Attorney, and my attorney. I further consent to the release of the results of any drug testing required as a condition of this program to the individuals described above, and that such results may be made part of the public record of my case in the event that such testing results in my termination from the program.

I understand and agree that the purpose and need for this disclosure is to assist the District Attorney's Office in evaluating and determining my eligibility to participate in the Pretrial Diversion Program as well as my counseling needs, compliance, and progress in accordance with program criteria. I hereby agree to hold such individuals harmless and relieve and release such individuals from any and all liability regarding any such communication.

Recipients of this information may not re-disclose it except in connection with my counseling or treatment, or otherwise as permitted by federal law and rules. I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Pretrial Diversion Program, and/or a formal discontinuation of court proceedings regarding my case.

This the _____ day of _____, 20__.

Defendant

Attorney for Defendant

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

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v.

IND/ACC NO. _____

WAIVER OF RIGHT TO WITHDRAW GUILTY PLEA

COMES NOW, _____, Defendant in the above-styled case and waives his/her right to withdraw his/her plea of guilty.

The Defendant acknowledges that pursuant to O.C.G.A. § 17-7-93(b), the Defendant has a right at any time before judgment is pronounced to withdraw a plea of guilty. By entering into a plea of guilty in the above-styled case and consenting to enter into the Blue Ridge Judicial Circuit Pretrial Diversion Program as to Count(s) _____, the Defendant hereby waives the right to withdraw his/her plea of guilty and consents to the Court withholding sentencing while the Defendant is a participant in the Blue Ridge Judicial Circuit Pretrial Diversion Program.

The Defendant acknowledges that if he/she violates the terms and conditions of the Blue Ridge Judicial Circuit Pretrial Diversion Program or is terminated from the Blue Ridge Judicial Circuit Pretrial Diversion Program for any reason, the Defendant will be brought before the Court for a sentencing hearing. The Court will have discretion in imposing a sentence that could be up to the maximum punishment authorized by law for the offense to which the Defendant has pled guilty. The Defendant also acknowledges that he/she is not entitled to credit from the date the plea of guilty was entered towards the sentence for time served in the Blue Ridge Judicial Circuit Pretrial Diversion Program.

The Defendant further acknowledges that upon successful completion of the Blue Ridge Judicial Circuit Pretrial Diversion Program, the State of Georgia, by and through the District Attorney, consents to the Defendant being allowed to withdraw the plea of guilty, as to those counts subject to this agreement, whereby the State will present a nolle prosequi to the Court dismissing those eligible counts and restricting the record in the above-styled case. However, this agreement will not apply to any charge of driving under the influence (D. U. I) or other charges excepted from this agreement as those charges will not be dismissed.

This the _____ day of _____, 20__.

Judge, Superior Court
Blue Ridge Judicial Circuit

Consented to:

Defendant

Assistant District Attorney

Defense Attorney

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

ORDER WITHHOLDING SENTENCE

The defendant has entered a plea of guilty to (count(s) _____) (all counts) of the above-styled Indictment/Accusation, and has been accepted as a pre-adjudication participant in the Pretrial Diversion Program. IT IS THEREFORE ORDERED that sentencing as to (count(s) _____) (all counts) is WITHHELD pending the defendant's completion of said program and **said case shall not appear on any trial calendars**. The State has stated its intention, should the defendant successfully complete said program, to move that this guilty plea be withdrawn and request an order of nolle prosequi be entered as to those eligible counts and the record restricted. However, should the defendant fail to successfully complete the Pretrial Diversion Program for any reason, this case shall be placed on the active calendar of this court for sentencing through a rule nisi issued from the Calendar Clerk, without further Order from this Court.

SO ORDERED this the ____ day of _____, 20____.

Judge, Superior Court
Blue Ridge Judicial Circuit

Consented to:

Defendant

Assistant District Attorney

Attorney for Defendant

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

v.

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IND/ACC NO. _____

WAIVER OF JURY TRIAL

NOW COMES the defendant, _____, and herewith waives his/her right to a jury trial and agrees to proceed with this case before the judge and without a jury.

This ____ day of _____, 20____.

Consented to:

Assistant District Attorney

Attorney for the Defendant

Defendant

Judge, Superior Court
Blue Ridge Judicial Circuit