

Winona County, Minnesota Adult Diversion Program

Policies and Procedure Manual

Effective December 6, 2010

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WINONA COUNTY ADULT DIVERSION PROGRAM GUIDELINES

I. **INTRODUCTION:** The Winona County Attorney's Office, in conjunction with the Adult Diversion Workgroup of the Winona County Criminal Justice Coordinating Council, has developed the following Diversion Program, with the following purposes:

- Deliver specific intervention programming to targeted participants to prevent, eliminate, or reduce the rate of recidivism among the programs' participants.
- Provide eligible defendants with an alternative to the traditional court process and a criminal conviction.
- Promote the collection of restitution to the victim(s) of the defendant's crime.
- Develop responsible alternatives to the criminal justice system for eligible defendants.
- Reduce the costs and caseload burdens on district courts and the criminal justice system.

Participation in the Diversion Program is not a right of the defendant, but rather an alternative to prosecution for those adults (1) who acknowledge that the conduct giving rise to possible prosecution was a violation of law, (2) who have demonstrated the ability to follow the program components in a timely way, (3) who are remorseful, and (4) who have the ability to make appropriate restitution to the victim and reparation to the community.

II. **ELIGIBILITY:**

A. **Introduction:** Determining eligibility for the Diversion Program is a three-part process:

- **Criminal History Eligibility:** First, the defendant must not have a criminal history that disqualifies the defendant from consideration for participation in diversion.
- **Criminal Offense Eligibility:** Second, the alleged violation of law must be contained within the list of eligible offenses.
- **Advanced Eligibility Requirements:** Third, the defendant must abide by the advanced eligibility requirements.

The final determination of a defendant's eligibility for the Diversion Program is within the sole discretion of the prosecutor and may be based upon additional factors not specifically included within these guidelines.

B. **Criminal History Eligibility:** A defendant is eligible for the Diversion Program if the defendant has:

1. No prior felony or gross misdemeanor convictions.

2. Three or fewer misdemeanor convictions within the preceding ten years, excluding traffic.
3. No prior felony juvenile adjudications within the previous two years. No pending felony or gross misdemeanor charges.

C. Criminal Offense Eligibility: A defendant is eligible for the Diversion Program if the alleged violation of law is listed and the amount involved is \$5,000 or less:

1. Criminal Damage to Property (Minn. Stat. Sec. 609.595);
2. Possession/Receiving Stolen Property (Minn. Stat. Sec. 609.53);
3. Theft (Minn. Stat. Sec. 609.52);
4. Financial Transaction Card Fraud (Minn. Stat. Sec. 609.821);
5. Check Forgery and Offering Forged Checks (Minn. Stat. Sec. 609.631);
6. Possession of Burglary or Theft Tools (Minn. Stat. Sec. 609.59);
7. Possession of Shoplifting Gear (Minn. Stat. Sec. 609.521);
8. Issuance of Dishonored Checks (Minn. Stat. Sec. 609.535);*
9. Computer Theft (Minn. Stat. Sec. 609.89);
10. Bringing Stolen Goods Into the State (Minn. Stat. Sec. 609.525);
11. Possession of Stolen or Counterfeit Checks (Minn. Stat. Sec. 609.528);
12. Wrongfully Obtaining Public Assistance (Minn. Stat. Sec. 256.98)**
13. Identity Theft (Minn. Stat. Sec. 609.527).

Other property offenses may also be included at the discretion of the prosecutor.

*Note that the offense of Issuance of Dishonored Checks for less than \$1,500 is eligible for diversion under the Winona County Worthless Check Diversion Program.

**To be eligible for Diversion, a defendant charged with this offense must sign a Disqualification Consent Agreement with the prosecutor, agreeing to be disqualified from the receipt of public assistance benefits pursuant to the public assistance program policy.

D. Advanced Eligibility Requirements: With respect to advanced eligibility requirements, a defendant is eligible for the Diversion Program if the following conditions are met:

1. The defendant completes a Diversion Application and signs a Release of Information.
2. The defendant signs a Diversion Agreement and abides by all of its terms.
3. The defendant admits guilt, acknowledges responsibility and provides a factual basis regarding the offense.
4. The defendant agrees to pay full restitution within one year from the date of diversion to any/all victims who have incurred a monetary loss and requested restitution, including any actual costs of prosecutions per Minn. Stat. §631.48.
5. The defendant pays the diversion program fee of \$150.

6. The defendant pays any/all fees relating to individualized diversion programming and/or treatment.

E. Prosecutorial Discretion: Admission into the Diversion Program rests within the discretion of the prosecutor. Some of the factors which may be considered by the prosecutor in making the recommendation for the Diversion Program include the following:

- Any previously diverted offenses or offenses for which the defendant received a continuance for dismissal or stay of adjudication;
- The nature and circumstances of the offense and the sanction or punishment to be imposed if a person is convicted of the charged offense;
- The probability of the conviction;
- Special characteristics of the defendant;
- The willingness of the defendant to cooperate and succeed in diversion;
- The interests of the victim;
- The recommendations of law enforcement;
- The age of the offense;
- Undue hardship on the defendant;
- Undue hardship upon or the reluctance of witnesses to testify; and/or
- Any mitigating or aggravating circumstances.

A prosecutor will not consider any personal or political advantages which a prosecution may bring, nor should a prosecutor consider in any way the race, ethnicity, gender, sexual orientation, religion, social status or economic status of the defendant, victim and/or witnesses in the diversion decision. After consulting with the prosecutor, the defendant or his/her attorney may appeal the prosecutor's decision not to recommend diversion to the County Attorney.

III. PROGRAM PROCEDURES

- A. Offense Eligibility Screening: When preparing the charging documents, the Winona County Attorney's Office will screen incoming cases to determine preliminary criminal history and whether the defendant has been charged with an eligible offense. The prosecutor will complete a Diversion Screening Worksheet and place the worksheet in his/her file. At the first hearing where an eligible Defendant appears with an attorney or waives an attorney's representation, the prosecutor will provide the attorney, or the defendant if no attorney, with a Diversion Program Packet. The defendant or his/her attorney may request information from the prosecutor regarding eligibility for the diversion program.
- B. Diversion Application and Releases: Defendants who meet offense eligibility criteria may request to participate in the Diversion Program by completing and submitting a Diversion Application to the prosecuting attorney and signing a Release of Information to allow for the Department of Corrections to receive a

copy of their criminal history for the purpose of verifying criminal history eligibility. The Diversion Application must be submitted to the prosecuting attorney within two weeks of the defendant's first court appearance with (or having waived) legal representation on the charge, receipt of all discovery materials by the defense, or an Order following omnibus hearing, whichever is later. The prosecuting attorney has discretion to waive the time limit for the Diversion Application.

- C. Criminal History Eligibility: All defendants who meet offense eligibility and who have completed a Diversion Application and Release of Information will be referred by the prosecutor's office to the Department of Corrections. The Department of Corrections will conduct a criminal record check and notify the prosecutor and defendant (or defendant's attorney, if represented) as to whether the defendant meets the criminal history eligibility requirements.
- D. Victim and Law Enforcement Input: The prosecutor will consult with the victim and the appropriate law enforcement agency before a defendant is approved by the prosecutor for diversion. Reasonable objections from the victim or law enforcement will be given significant weight and shall be communicated to the court, though may not automatically disqualify the defendant from the program. Both the prosecutor and the court may, in their discretion, reject diversion.
- E. Diversion Agreement: As part of the Diversion Program, the defendant will be required to sign a Diversion Agreement with the Department of Corrections specifying the terms and conditions that must be followed during diversion. The Diversion Agreement will specify a time period certain in which the defendant must complete diversion, usually one year. In exceptional circumstances, the Department of Corrections may extend the diversion period for an additional year. The Diversion Agreement must be signed before the Admission of Responsibility is made and a copy must be attached to the Rule 15 Petition to Plead Guilty.
- F. Admission of Responsibility: If the prosecutor approves the defendant for diversion, the defendant will offer a plea of guilty, including a waiver of constitutional and evidentiary issues and a factual basis, on the court record and in a written document according to Minnesota Rule of Criminal Procedure 15. A factual basis regarding the offense includes, but is not limited to, the full, complete and truthful statement of the involvement of the defendant and others in the offense and cooperation in the ongoing investigation of the matter, including, but not limited to, complete and truthful information to law enforcement and/or testimony at any and all trials or hearings regarding co-defendants, accomplices and/or co-conspirators in this or any other jurisdiction. Pleas pursuant to North Carolina v. Alford, 400 U.S. 25, 91 (1970) will not be accepted.
- G. Court Approval: If the court approves the defendant for diversion, the court will not accept the plea of guilty, but will order the defendant into the Diversion Program, defer acceptance of the guilty plea, and continue the criminal

prosecution pending successful completion of the program. The written plea petition will be kept in the court file pending final disposition of the matter.

IV. **TERMINATION**

A. **Successful Termination:**

1. **Conditions Precedent to Successful Termination**

- a. The defendant must follow all rules and regulations of the Winona County Diversion Program and must successfully complete all program requirements specified in the Diversion Agreement. A defendant will not be considered for successful discharge from diversion until the defendant has met all of the conditions set forth in the diversion agreement which may include, but are not limited to, such programs and conditions as chemical dependency evaluation and treatment, counseling, attendance at various program classes, and performance of community work service.
- b. Full restitution and payment of any other financial obligations must be made during the period of diversion. The defendant must sign and comply with a payment schedule as set by the Department of Corrections.
- c. The defendant must remain law-abiding and of good behavior and not commit any new offense, supported by at least probable cause, during diversion. The Department of Corrections will conduct a criminal record check before a defendant is successfully discharged from diversion.

2. **Effect of Successful Termination**

- a. Upon successful completion of the diversion program by the defendant, Corrections will submit a recommendation to the prosecutor. If the prosecutor is aware of additional information unknown to the Department of Corrections that could impact whether the defendant has successfully completed the diversion program, they may return the recommendation, with the additional information, to the Department of Corrections for review of the recommendation.
- b. Upon receipt of the Department of Corrections recommendation the prosecutor will file a Dismissal of Charges with the court.
- c. Upon successful completion of the diversion program and dismissal of the charge or complaint against the defendant, the defendant shall not be entitled to a return of finger and thumbprint data collected by law enforcement agencies, nor to photographs, distinctive physical mark identification data, or other identification data collected by law enforcement agencies, nor shall the

defendant be entitled to the return of any arrest or offense reports and duplicates thereof in the hands of law enforcement or the prosecutor.

B Unsuccessful Termination

1. **Termination from the program**

- a. If a defendant provides false material information to the Court or Corrections during the screening process or entrance into the diversion program, fails to complete any condition of the diversion agreement, commits a new offense during the diversion period, or otherwise violates any rule or condition of the diversion program, the Department of Corrections will notify the defendant and prosecutor of the violation.
- b. The prosecutor will make a motion to the court to reinstate proceedings and request a hearing date to address the defendant's alleged violation of the terms of the diversion program.
- c. If the defendant fails to appear in court on the date and at the time and location specified to do so by the Department of Corrections, the court may issue a warrant for the arrest of defendant.
- d. Upon the court's determination that the defendant has violated the terms of the diversion program the court will accept the defendant's previously entered guilty plea, enter judgment of conviction, and schedule a sentencing date following a pre-sentence investigation.
- e. A defendant failing to successfully complete the diversion program shall not be entitled to withdraw the earlier plea of guilty except as allowed by the court pursuant to Rule 15.05, Minnesota Rules of Criminal Procedure.

V. **DATA COLLECTION AND DISSEMINATION:**

- A. Collection: Prosecutors will keep records of the number and characteristics of persons who successfully complete the program and those who fail to complete the program.
- B. Dissemination: Prosecutors will provide collected information on an annual basis by January 31st of each year to the Winona County Board of Commissioners and the Criminal Justice Coordinating Council.

- VI. **EFFECTIVE DATE:** The Winona County Adult Criminal Diversion Program Guidelines are effective December 6, 2010 and will only apply to any charges pending at or after that time.

Biographical Information Form

Applicant:					
Last Name	First Name	MI	Maiden Name	Are you currently employed? Y__ N__	
Current Address			Soc. Sec. #	If so:	
City	State	Zip Code	Date of Birth	Employer Name	
Home Phone Number			Race	Employer Address	
Cell Phone Number			Sex: M__ F__	City	State
Other names I have been known by:			Zip Code		
Work Phone Number					

Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced					
If Married or Separated, Spouse's:					
Last Name	First Name	MI	Maiden Name	Employer Name	
Current Address			Soc. Sec. #	Employer Address	
City	State	Zip Code	Date of Birth	City	
Home Phone Number			State		
			Zip Code		
			Work Phone Number		

<i>Children (List Name and Age)</i>	Father ___ Deceased	Mother ___ Deceased				
	Last Name	First Name	MI	Last Name	First Name	MI
	Address			Address		
	City	State	Zip Code	City	State	Zip Code
	Phone Number			Phone Number		

<i>Previous Addresses within the past 10 years (use back of sheet if necessary)</i>			
Address	City	State	Zip Code
Address	City	State	Zip Code
Address	City	State	Zip Code
Address	City	State	Zip Code

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

**APPLICATION TO ENTER
THE WINONA COUNTY
ADULT DIVERSION PROGRAM**

Defendant.

District Court File No. _____

County Attorney File Number _____

TO: THE WINONA COUNTY ATTORNEY’S OFFICE:

I, _____, Defendant in the above-entitled action, respectfully represent and state as follows:

1. I have completed and attached the Biographical Information Form and, by my signature below, authorize the Winona County Attorney’s Office to disclose it to the Diversion Coordinator along with a copy of my criminal history.
2. I have received, read and fully understand the provisions of the Winona County Adult Diversion Program and agree to be bound by those provisions upon the Court’s acceptance of the Agreement.
3. If accepted into the Winona County Adult Diversion Program, I agree to be bound by all provisions of the Winona County Adult Diversion Program.
4. I understand that I have been charged with the crime(s) of _____
_____,
committed on or about _____ in Winona County, Minnesota.
5. I understand that in order to be accepted into this program, I will be placed under oath by the court and must fully disclose and admit the facts underlying the charges including, but not limited to, my involvement in the crime(s) committed and the identity and involvement of others. I understand that I may be required to cooperate in the ongoing investigation of this matter and may be required to testify against others involved in this matter.
6. I understand that in order to be accepted into this program I must waive my right to a speedy trial by a jury of my peers.
7. I understand that in order to be accepted into this program I must waive my right to an Omnibus Hearing.

8. I understand and agree that any and all statements I make as part of this Application and any subsequent Agreement are voluntarily given and may be used against me in any subsequent legal proceedings.
9. I agree to be bound by all terms and conditions placed upon me by the Diversion Coordinator.
10. I understand that if I successfully complete all terms and conditions placed on me, all charges in this file will be dismissed by the prosecutor.
11. I understand that if I fail to meet any of the terms and conditions placed on me, including any financial obligations, I will be adjudicated guilty as charged and subjected to further sentencing proceedings.
12. I understand that if I wish to discontinue participation in the program after having been accepted, but prior to successful completion of all terms and conditions, I will be adjudicated guilty as charged and subjected to further sentencing proceedings.
13. In view of all facts and considerations, and with full understanding of the provisions of this document and the Winona County Diversion Program, I am hereby requesting admission into this program.

 Defendant's Signature
 _____, Defendant

Subscribed and sworn to before me
 This ___ day of _____, 20__.

 Notary Public

I, _____, state that I am the attorney for the defendant in the above-entitled criminal action; that I personally explained the contents of the above petition to the defendant; and that I personally observed the defendant date and sign the above petition.

Dated this ___ day of _____, 20__.

 Attorney for Defendant

Pro Se Defendant: I understand that I have a right to be represented by an attorney. By signature below I am waiving that right and representing myself.

 Signature

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

Defendant.

**RULE 15 PETITION TO
ENTER A GUILTY PLEA
IN A FELONY CASE
PURSUANT TO THE ADULT
DIVERSION PROGRAM**

District Court File No. _____
County Attorney File Number _____

TO THE ABOVE-NAMED COURT

I _____, Defendant in the above-entitled action, do respectfully represent and state as follows:

1. My full name is _____. I am _____ years old, my date of birth is _____. The last grade that I went through in school is _____.
2. If filed in my case, I have received, read and discussed a copy of the (Indictment) (Complaint)
3. I understand the charge(s) made against me in this case.
4. Specifically, I understand that I have been charged with the crime(s) of _____

committed on or about _____ in Winona County, Minnesota.
5. I am represented by an attorney whose name is _____ and:
 - a. I feel that I have had sufficient time to discuss my case with my attorney.
 - b. I am satisfied that my attorney is fully informed as to the facts of this case.
 - c. My attorney has discussed possible defenses to the crime that I might have.
 - d. I am satisfied that my attorney has represented my interests and has fully advised me.
6. I have / have never been a patient in a mental hospital.
7. I have / have not talked with or been treated by a psychiatrist or other person for a nervous or mental condition.

8. I have / have not been ill recently.
9. I have / have not recently been taking pills or other medicines.
10. I do / do not make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.
11. I do / do not make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.
12. I do / do not make the claim that the fact I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.
13. I was / was not represented by an attorney when I had a probable cause hearing. I have not had a probable cause hearing
 - a. I know that I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.
 - b. I also know that I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.
14. My attorney has told me and I understand:
 - a. That the prosecutor for the case against me, has:
 - i. physical evidence obtained as a result of searching for and seizing the evidence;
 - ii. evidence in the form of statements, oral or written that I made to police or others regarding this crime;
 - iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search;
 - iv. identification evidence from a line-up or photographic identification; and,
 - v. evidence the prosecution believes indicates that I committed one or more other crimes.
 - b. That I have a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.
 - c. That if I requested such a pre-trial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial in this case.
 - d. That I do / do not now request such a pre-trial hearing and I specifically do / do not now waive my right to have such a pre-trial hearing.
 - e. That whether or not I have had such a hearing I will not be able to object at any time in the future to the evidence that the prosecutor has.
15. I have been told by my attorney and I understand:
 - a. That if I wish to plead not guilty I am entitled to a trial by a jury on the issue of guilt, and all jurors would have to agree I was guilty before the jury could find me guilty.

- b. That if I plead guilty I will not have a trial by either a jury or by a judge without a jury.
 - c. That with knowledge of my right to a trial on the issue of guilt, I now waive my right to a trial.
16. I have been told by my attorney and I understand that if I wish to plead not guilty and have a trial by jury or trial by a judge I would be presumed innocent until my guilt is proved beyond a reasonable doubt.
17. I have been told by my attorney and understand:
- a. That if I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right, through my attorney, to question these witnesses.
 - b. That with knowledge of my right to have the prosecution's witnesses testify in open court in my presence and questioned by my attorney, I now waive this right.
18. I have been told by my attorney and I understand:
- a. That if I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.
 - b. That with knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.
19. I have been told by my attorney and I understand:
- a. That a person who has prior convictions or a prior conviction can be given a longer prison term because of this.
 - b. That the maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for __years. That if a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than ____ months for this crime.
 - c. That for felony driving while impaired offenses and most sex offenses, a mandatory period of conditional release will follow any executed prison sentence that is imposed. Violating the terms of this conditional release may increase the time I serve in prison. In this case, the period of conditional release is _____ years.
 - d. That a person who participates in a crime by intentionally aiding, advising, counseling and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.
 - e. That my present probation or parole could be revoked because of the plea of guilty to this crime.
 - f. That the prosecutor is seeking an aggravated sentence of _____.
 - g. That if I am charged with a crime of violence, as defined in Minn. Stat. § 624.712, subd. 5, I am not entitled to possess a firearm during the period of the pretrial diversion program, pursuant to Minn. Stat. § 624.713.
 - h. That if I am charged with Wrongfully Obtaining Assistance and enter the Winona County Adult Diversion Program I may be still disqualified from receiving certain program benefits, even though I am not ultimately convicted of any crime.

20. I have been told by my attorney and understand:
- a. That my attorney discussed this case with a prosecutor in the Winona County Attorney's Office and my attorney and the prosecutor agreed that I may be accepted into the Winona County Adult Diversion Program on the following conditions:
 - i. I will be placed under oath by the court and provide a full admission of the factual basis for the crimes charged. A plea pursuant to *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160 (1970), will not be accepted;
 - ii. A Diversion Application has been made and accepted by the Diversion Coordinator;
 - iii. I have received and reviewed with my attorney a copy of the Winona County Adult Diversion Program and agree to said document in its entirety;
 - iv. I agree to participate in the Winona County Adult Diversion Program and pay the \$150 fee associated with the program and any/all fees related to individualized programming and/or treatment. The fee is due upon entry to the diversion program and any other costs of the program shall be paid before dismissal of the complaint pursuant to Minnesota Rule of Criminal Procedure 30.01;
 - v. As part of the diversion program, I have signed a Diversion Agreement with Winona County Community Corrections specifying the terms and conditions that must be followed during the period of diversion. A copy of the signed agreement is attached to this Agreement. I understand that Community Corrections will specify the time period of diversion, which will not exceed one year without written approval of the County Attorney or designee;
 - vi. I agree to pay restitution in the amount of _____;
 - vii. I acknowledge that failure to pay restitution pursuant to the schedule determined by the Diversion Program of Community Corrections or any other noncompliance with any term or condition of the Diversion Agreement will result in termination from the diversion program. Upon termination from the diversion program, this court will accept my plea and enter a judgment of conviction and set the matter on for sentencing.
 - b. That if the court does not approve this agreement:
 - i. I have an absolute right to then withdraw my plea of guilty and have a trial.
 - ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.
21. That except for the agreement between my attorney and the prosecuting attorney:
- a. No one—including my attorney, any police officer, prosecutor, judge, or any other person—has made any promises to me, to any member of my family, to any of my friends or other persons, in order to obtain a plea of guilty from me.
 - b. No one—including my attorney, any police officer, prosecutor or judge, or any other person—has threatened me, or any member of my family or my friends or other persons, in order to obtain a plea of guilty from me.
22. My attorney has told me and I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea with the court's approval, or if the plea is withdrawn by court order on appeal or other review:

- a. I would then stand trial on the original charge(s).
 - b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.
23. My attorney has told me and I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the court's time.
24. My attorney has told me and I understand that a judge will not accept a plea of guilty for anyone who claims to be innocent.
25. I now make no claim that I am innocent.
26. I have been told by my attorney and I understand that if I wish to plead not guilty and have a jury trial:
- a. That I could testify at trial if I wanted to but I could not be forced to testify.
 - b. That if I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.
 - c. That with knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive (give up) this right and I will tell the judge the facts of the crime.
27. My attorney has told me and I understand that if I am not a citizen of the United States this plea of guilty may result in deportation, exclusion from admission to the United States of America or denial of citizenship.
28. That in view of all above facts and considerations I wish to enter a plea of guilty.

Dated: _____

Signature

Name: _____

Street Address: _____

City/State/Zip: _____

Winona County Adult Diversion
Notice to Prosecuting Attorney

Date:

To:

From: Aarah Saugen, Diversion Agent
10 Washington St
Winona, MN 55987

Re:

The above named individual has been referred to the Adult Diversion program in Winona County, MN.
Please be advised this case has been:

1. Accepted for Diversion Supervision on _____. The length of Diversion is for a period of _____ months. Expiration date: __.
2. Not accepted for Diversion Supervision for the following reason(s):
 - Defendant not willing to accept Diversion.
 - Defendant not willing to admit offense(s).
 - Defendant has prior period of Probation or Diversion Supervision.
 - Defendant has prior conviction(s) for _____.
 - Present offense is not appropriate for Diversion Supervision.
 - Other: please specify _____.

Comments:

Winona County Adult Diversion Discharge Form

Date:

To:

From:

Re:

The above named individual was referred to the Winona County Adult Diversion Program for the offense(s) of _____. A Diversion Contract was signed on _____. The length of Diversion was _____ months, with an expiration date of _____.

This notice is to inform you _____ has:

1. Successfully completed the conditions of the Diversion Contract and has been discharged from supervision. It is recommended that the charge(s) be dismissed.

2. Not successfully completed the conditions of the Diversion Contract and has violated the conditions in the following manner(s):
 - Failure to remain law abiding.
 - Failure to report to Diversion Agent as directed.
 - Failure to keep Diversion Agent informed of employment and residence.
 - Failure to abstain from the illegal use or possession of controlled substances and submit to testing to verify compliance.
 - Failure to complete _____ hours of Sentencing to Service.
 - Failure to pay restitution in the amount of _____.
 - Failure to submit to an Alcohol Problems Assessment and abide by all recommendations.
 - Other: _____.

Comments:

Sincerely,

Diversion Agent

State of Minnesota Winona County Adult Diversion Contract

For having committed the offense(s) of _____, I hereby agree to voluntarily waive my rights to a speedy trial in order to obtain the benefits and services of the Pre-Trial Diversion Program which rights have been explained to me and include the following:

- Upon successful completion of the Diversion Contract and written recommendation from the Diversion Agent, the County Attorney will dismiss the above listed charge(s).
- Any violation of the General or Special Conditions of this contract will be subject to review by the Diversion Agent and will result in a referral to the County Attorney's Office for prosecution.
- No Diversion Contract will be longer than one year in duration.

General Conditions:

1. I shall obey all State and Federal laws and all local ordinances.
2. I shall report to my Diversion Agent as directed: _____.
3. I shall advise my Diversion Agent prior to making any changes in employment and/or residence.
4. I shall obtain permission from my Diversion Agent prior to leaving the State.
5. I shall, by the next business day, notify my Diversion Agent if I am arrested or issued a summons.
6. I shall, when ordered by my Diversion Agent, submit to a search of my person, residence, or any other property under my control.
7. I shall abstain from the illegal use or possession of controlled substances and shall submit to testing to verify compliance.
8. I shall cooperate and be truthful with my agent in all matters.

Special Conditions:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Length of Contract:

The above Diversion Contract will remain in effect for _____, but no longer than 12 months. Failure to complete all special conditions within 12 months will result in this matter being referred to the County Attorney's Office for prosecution.

I have read and/or have had read to me the above conditions of this contract and hereby agree to abide by them. I further acknowledge receiving a copy of this contract.

Diversion Client:

Date

Diversion Agent:

Date