

Supreme Court of Kentucky

ORDER

**IN RE: COURT RULES FOR PRETRIAL SERVICES DISTRICT COURT
DIVERSION/PROBATION
CHRISTIAN DISTRICT COURT**

Pursuant to KRS 533.262 and SCR 1.040(3)(a), the attached Court Rules for Pretrial Services District Court Diversion/Probation Program for the Christian District Court are hereby approved.

Entered this 6th day of December, 2005.


CHIEF JUSTICE

**PRETRIAL SERVICES DISTRICT COURT
DIVERSION/PROBATION PROGRAM
CHRISTIAN COUNTY**

PROPOSED COURT RULES

1) ELIGIBILITY REQUIREMENTS

- A. All persons charged in District court with the commission of a misdemeanor or violation shall be eligible for participation in the Administrative Office of the Courts Pretrial Services District Court Diversion/Probation Program (Program), as an alternative to criminal prosecution or as a condition of probation.
- B. Nothing in this rule shall be deemed to limit the authority of the county attorney to withdraw criminal prosecution in any given case.
- C. Exceptions – No one charged with a violation of KRS Chapter 189A shall be diverted and a prior participant shall only be eligible in the discretion of the Court.

2) PARTICIPATION

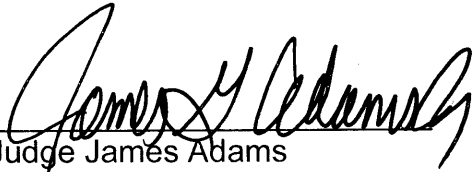
- A. Upon consent of the county attorney and the defendant, or as a condition of probation, the trial judge may approve participation in the Program for any individual who meets the eligibility requirements established in Section 1 above unless the trial judge, in his or her discretion believes that the defendant will abscond or is likely to commit another offense prior to completion of the diversion; or that participation would unduly diminish the seriousness of the offense; or that correctional treatment is appropriate; or for other reasons expressed by the Court.
- B. The county attorney's consent to a defendant's participation in the Program shall not be unreasonably withheld; and when consent is not given the reason(s) shall be stated on the record.
- C. Upon approval for participation in the Program, the Defendant must sign a Pretrial Diversion Order, Order of Probation, or both. Prior to signing, the Defendant shall be given an opportunity to consult with an attorney if he or she desires to do so.
- D. In cases involving Pretrial Diversions, participation in the Program shall not constitute an admission or presumption of guilt of the crime charged and shall not be proof of guilt in any subsequent legal action.

- E. The District Court Judge may access Program information for purposes of Program review, monitoring, and supervision. The information shall not be released to any other person or entity without written consent of the Judge or the Defendant. Nothing in this paragraph shall be deemed to prohibit release of information to the victim regarding a defendant's participation in the Program.
- F. The fee for participation in the Program shall be in an amount set by the Director of AOC. The Court may assess the fee on a sliding scale based upon ability to pay and waive the fee in cases of indigence.

3) **THE DIVERSION/PROBATION ORDER**

- A. Upon approval of participation in the Program, the defendant shall meet with a pretrial officer to review the Court ordered conditions, the referral services to be used, the length of the order, and if required, payment of restitution.
- B. The length of the diversion and/or probation shall be determined by the Court and shall not exceed 24 months.
- C. The participant shall be required to comply with all provisions of the diversion/probation order. If the participant fails to comply with the conditions of the order, the pretrial officer shall refer the participant to the Judge for a determination of termination, modification, revocation, or a combination of the same. The Judge shall enter an order of the determination and if the same involves termination of a diversion, the county attorney may initiate prosecution of the defendant for the charge(s).
- D. A defendant may request of the Court to terminate a pretrial diversion and the request shall be granted or denied in the discretion of the Court. If the request is granted, the case shall be referred to the county attorney for prosecution.
- E. Upon successful completion of a diversion, the charges shall be dismissed with prejudice. The record shall be retained in conformity with the Kentucky Court of Justice Records Retention Schedule.
- F. Upon successful completion of probation, the defendant shall be removed from active probation supervision.

Dated this the 28th day of November, 2005.



Judge James Adams
Christian District Court

HAVE SEEN & APPROVED



Cindra K. Walker
Staff Attorney
AOL