



Office of the Sixth Judicial District Attorney

NORMAN R. WHEELER
DISTRICT ATTORNEY

**SIX JUDICIAL DISTRICT ATTORNEY'S OFFICE PRE-PROSECUTION DIVERSION (PPD)
PROGRAM GUIDELINES:**

Purpose:

The purpose of the Pre-Prosecution Diversion Act [31-16A-8 NMSA 1978] is to remove those persons from the criminal justice system who are the most amenable to rehabilitation and least likely to commit future offenses, to provide those persons with services designed to assist them in avoiding future criminal activity, to conserve community and criminal justice resources, to provide standard guidelines and to evaluate Pre-Prosecution Programs.

Statute Eligibility:

A defendant must meet the following minimum criteria to be eligible for a Pre-Prosecution Program:

1. The defendant must have no prior felony convictions for a violent crime and no prior felony convictions for any crime for the previous ten years;
2. The crime alleged to have been committed by the defendant is non-violent in nature, with the exception of domestic disputes not involving a minor;
3. If the defendant was on probation previously, his probation must not have been revoked or unsatisfactorily discharged;
4. The defendant has not been admitted into a similar program for the previous ten years;
5. The defendant is willing to participate in the program and submit to all program requirements;
6. The crime alleged to have been committed by the defendant does not involve the substantial sale or possession of controlled substances; and
7. A person meeting all of the above criteria and any additional criteria established by the District Attorney may be entered into the Pre-Prosecution Diversion Program. The District Attorney may elect to not divert a person to the Pre-Prosecution Diversion Program even though that person meets the minimum criteria herein set forth. A decision by the District Attorney to not divert to the Pre-Prosecution Diversion Program is not subject to appeal and may not be raised as a defense to any prosecution or habitual offender proceeding.

General Guidelines:

1. THE DEFENDANT MUST BE REPRESENTED BY AN ATTORNEY.
2. The defendant must meet the eligibility requirements as stated above.
3. Crimes eligible for PPD (not exhaustive list):
 - Shoplifting/theft
 - Assault/Battery on a Household Member
 - Criminal Damage to Property
 - Possession of Drug Paraphernalia
 - Assault/Battery
 - Reckless Driving
4. Defendants charged with the following crimes **are not eligible** to apply to the PPD Program without prosecutor approval:
 - Abandonment of a Dependent
 - Breaking and Entering of a Dwelling House
 - Criminal Sexual Penetration in the 4th degree (Exceptional situations may be considered)
 - Distribution of a Controlled Substance or Dangerous Drugs
 - Fraudulently Obtaining Controlled Substances
 - Multiple criminal charges occurring at different times and in different locations
 - Substantial Possession of a Controlled Substance or Dangerous Drugs
 - Substantial Possession with Intent to Distribute a Controlled Substance or Dangerous Drugs
 - Trafficking a Controlled Substance or Dangerous Drugs
 - Crimes Against Children
 - Burglary of a residence or of a business; Breaking and Entering of a Residence
 - Carrying of a Firearm into a School or Licensed Liquor Establishment
 - Sex Crimes: Criminal Sexual Penetration, Sexual Contract, or Failure to register as a Sex Offender

- The crime alleged to have been committed by the defendant is violent in nature, with the exception of domestic disputes not involving a minor
 - Defendant is pending charges or receive new charges while awaiting outcome of any pending charge
 - Child Abuse resulting from a DWI or DUI
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5. Defendants having the following criminal background **are not eligible** to apply to the PPD Program without Prosecutor approval:

- Prior felony conviction
- Prior juvenile adjudication for a felony
- Unsatisfactory discharge from any previous probation
- Prior juvenile commitment to a boy's or girl's school or similar youth facility
- Previous participation in a first offenders diversion program
- Prior DWI offenses

6. Defendants must be willing to submit to the following requirements as set by the District Attorney:

- Domestic Violence Counseling
- Theft Awareness and Budgeting Counseling
- Anger Management Counseling
- Defensive Driving Counseling
- Parenting Counseling
- Drug and Alcohol Rehab/Counseling
- Rehab/Counseling

7. Defendant must be willing to complete 80-120 hours of community service within the first 6 months of supervision.
8. Defendant must be willing to commit to a minimum of 12 months to a maximum of 24 months of supervision.
9. Defendant must be willing to submit to random drug testing at defendant's own expense.
10. The investigating law enforcement agency must be informed and their concerns taken into consideration regarding the defendant's participation in the PPD Program.
11. The victim(s) opinion shall be taken into consideration to the defendant's participation in the PPD Program.
12. If the defendant is accepted into the PPD Program and that defendant does not have a High School Diploma or equivalent, the defendant will be required to complete a GED program.
13. Medical Marijuana will not be permitted under the PPD program. Once accepted into PPD, the defendant must adhere to all laws including Federal Laws, which prohibit medical marijuana use.

14. The program is intended for Defendant's who accept responsibility for their actions; Therefore, an Admission Statement is required. The admission statement must be true, complete and voluntary. Facts should not be altered by the Defendant to qualify for the PPD Program.
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Completion of PPD:

1. At the successful completion of the PPD Program, the defendant's charges will be dismissed.
2. The following documents will be filed by the PPD Officer:
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NOTICE OF SUCCESSFUL COMPLETION OF PPD Program

Termination of PPD:

1. If at any time the defendant fails to meet the requirements of the PPD Program as established, the defendant will be terminated.
2. Defendant is arrested or charged with any new offense.

Approved March 11, 2025