

STATE OF INDIANA) IN THE HAMILTON SUPERIOR ___ COURT
)
COUNTY OF HAMILTON) CAUSE NO. _____

STATE OF INDIANA)
)
VS.)
)
)
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PRETRIAL DIVERSION AGREEMENT

Comes now the State of Indiana by Sonia J. Leerkamp, Prosecuting Attorney for the 24th Judicial Circuit, and her agent for the Pretrial Diversion Program, and the Defendant, and enter into the following Agreement pursuant to Indiana Code 33-39-1-8;

- I. The State of Indiana agrees to withhold prosecution of the charges in this cause and to dismiss said charges at the end of this Agreement period (12 months). Dismissal is contingent upon the Defendant's compliance with each and every term of this Agreement.
- II. The Defendant agrees to:
 - 1. (a) Pay \$318.50 which represent a \$50.00 initial fee and a \$110.00 user fee as well as a \$158.50 court cost fee. Such payment shall be made to the Clerk of the designated Court.
(b) Present a receipt for the \$318.50 payment to the Hamilton County Diversion Coordinator upon entering into this Agreement: Please note that there are NO EXTENSIONS OF TIME FOR PAYMENT OF THE DIVERSION FEES OR DELIVERY OF THE RECEIPT. FAILURE TO MAKE THE DIVERSION FEE PAYMENT OR DELIVERY OF THE RECEIPT WILL RESULT IN THE DIVERSION COORDINATOR CERTIFYING THIS FAILURE TO THE HAMILTON COUNTY PROSECUTOR'S OFFICE FOR THE RESUMPTION OF THE PROSECUTION OF THIS CAUSE AND THE FORFEITURE OF ANY PAYMENT MADE TO THE HAMILTON COUNTY PRETRIAL DIVERSION PROGRAM;
 - 2. The defendant affirms under the pains and penalties of perjury that:
 - a. Defendant has not received a ticket, arrest, summons, or previous diversion for any criminal offense prior to this diversion.
 - b. Defendant agrees to obey all local, state, and federal laws. Defendant further agrees that he/she will not be arrested for and will not commit any criminal offense during the period of this Agreement. (NOTE: Perjury is a felony punishable by up to three (3) years in prison and a \$10,000 fine).
 - 3. Defendant agrees to perform and fully complete the special conditions initialed hereinafter;
 - 4. A Defendant has the right to be brought to trial within a reasonable period of time. Specifically, a Defendant who is not in jail has the right, with some exceptions, to have his/her case tried by a judge or jury within one (1) year of the date that the case was filed. By signing this agreement, the Defendant agrees to give up this right;
 - 5. Defendant agrees to support his/her dependents and meet family responsibilities;
 - 6. Defendant agrees to be gainfully employed or maintain a full-time course of study;
 - 7. Defendant agrees to report to the Hamilton County Prosecutor's Office as directed by the Diversion Coordinator;
 - 8. Defendant agrees to truthfully answer all reasonable inquiries posed by the Hamilton County Prosecutor's Office, Diversion Coordinator, or agent;
 - 9. Defendant agrees to report any contact with law enforcement within twenty-four (24) hours to the Diversion Coordinator at (317) 776-8415.

COPY

Defendant's Signature

10. Defendant specifically represents that his/her date of birth is _____, address is _____

and telephone number is _____. **Defendant agrees to notify the Diversion Coordinator within seven (7) days of any change of the above information or any change in employment/education status.**

County
County
Diversion
condition.

11. Defendant shall, when so directed by any law enforcement or probation officer, either provide immediately or report within one (1) hour to the Hamilton County Probation Department or other designated facility for a breathalyser, chemical test, or urine screen to determine whether the Defendant has consumed any alcohol beverage or intoxicant (if restricted) or controlled substance. Moreover, these tests can be administered to determine whether the Defendant has ingested or been in the presence of any controlled substance. Use or possession of any illicit drug shall constitute a violation of the Diversion agreement that may result in termination of the agreement and return of the case to the trial docket, or may cause additional conditions or time to be added to the terms of Diversion. The fee for the urine screen test must be paid to the Hamilton Clerk's Office within fifteen (15) days if the urine test is administered by the Hamilton Probation Department. The Defendant also agrees to allow access and entrance by the Coordinator (or other designate) at their residence for purposes of enforcing this

- (a) Defendant must submit to a chemical test when offered one by a law enforcement officer when the officer has probable cause to believe the Defendant has been operating a vehicle while intoxicated.
- (b) Defendant must not provide a dilute urine drug screen sample at entry or at any time

within the Diversion term. Defendant shall not drink excessive amounts of fluids the 24 hours preceding a urine drug screen, doing so may result in a dilute screen. A dilute urine drug screen is considered a violation of this Agreement.

- (c) If an initial urine drug screen is required defendant acknowledges that this urine drug screen will be free of any illicit drugs. Defendant acknowledges that any positive urine drug screen shall constitute a violation of the Diversion agreement that shall result in immediate termination from the Diversion Program and forfeiture of any and all Diversion related fees.
- (d) Defendant shall not attempt to nor alter any urine drug screen submitted as part of the Diversion Program. Doing so will result in immediate termination from the program. New charges may also be filed under IC 35-43-5-19, as interfering with a drug or alcohol screening test is a B Misdemeanor.

12. Defendant specifically acknowledges that failure to comply with each and every term/requirement of this Agreement will result in the Prosecuting Attorney proceeding with this matter. Failure to comply will also result in the forfeiture of any payment made to the Hamilton County Pretrial Diversion Program. Further, if the Prosecuting Attorney determines that he/she shall proceed, he/she may do so without notice, and the Prosecutor may request the Court to issue a warrant for the arrest of the Defendant. The Defendant understands that the Prosecutor may or may not, at his/her discretion, issue notice to the Defendant if he/she is not in compliance with this Agreement. Such a written notice, by Agreement, is not required but if the Prosecutor's Office does elect to mail a written notice to the Defendant, it shall be addressed specified in this Agreement unless the Defendant has notified the Hamilton County Prosecutor's Office of the change of address;

13. THE DEFENDANT, UNDER PENALTY OF PERJURY, ACKNOWLEDGES THAT BY SIGNING THIS AGREEMENT HE/SHE IS ADMITTING THE TRUTHFULNESS OF THE CHARGES AGAINST HIM/HER AND ACKNOWLEDGES THAT SUCH ADMISSION MAY BE USED AGAINST HIM/HER IF THERE IS A RESUMPTION OF THE PROSECUTION OF THESE CHARGES BY REASON OF TERMINATION FROM THE PRETRIAL DIVERSION PROGRAM.

COPY

Defendant's Signature

(A) COMMUNITY SERVICE

Initials

Defendant agrees to perform 20 hours of community service by a schedule and in a work site designated or approved by the Diversion Coordinator. Such community service shall be completed in its entirety on or before 02/11/2009, unless extended or modified by the Coordinator. Defendant further agrees to furnish proof of completion of this requirement to the Diversion Coordinator by the specified date.

(B) SUBSTANCE ABUSE EDUCATION, COUNSELING, AND TREATMENT

Initials

Defendant shall refrain from the consumption, possession, or transportation of any alcoholic beverage or intoxicating liquor. Defendant shall not enter any bar or liquor store where alcoholic beverages are sold or consumed or that you must be at least 21 years of age to enter unless if for requirements of employment. Moreover, Defendant shall not transport, possess, consume, or be in the presence of any controlled substance (illegal drug) unless legally prescribed by a physician. Defendant acknowledges that this condition is in effect for the entire term of licensed this Agreement.

Initials

Defendant agrees to submit to a drug/alcohol evaluation within 45 days at an agency approved by the Diversion Coordinator. This evaluation must be scheduled within seven (7) days from the date of this Agreement, and must be performed by a certified drug/alcohol counselor. The results of the evaluation and any recommendation for treatment must be provided to the Diversion Coordinator within 90 days of this Agreement. The Defendant must complete any recommended treatment or education to satisfy this requirement within 180 days of the date of the Agreement. The Defendant must pay all related fees in full. The *minimum* requirement to comply with this condition *after* the evaluation is the completion of an eight (8) hour educational class. Defendant acknowledges that he/she must comply with any and all recommendations set forth by originating counselor. Any subsequent recommendations from other parties will be unacceptable for this program. Defendant further authorizes the Diversion Coordinator to discuss with and reveal any pertinent information to the defendant's counselor or agent.

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Defendant's Signature

III. DATE OF AGREEMENT

I, _____, being duly sworn upon my oath, do hereby swear or affirm under penalties of perjury, that I have read all of the provisions of this Agreement, AND that I have been provided with a copy of the same, and that I understand said provisions, and that I will accept them as binding upon me and enter this Agreement of my own free will. In addition, I state that all of the information provided by me and contained in this Agreement is true.

Dated this _____ day of _____, _____.

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Sonia J. Leerkamp, Prosecuting Attorney
24th Judicial Circuit, State of Indiana
By: Lisa Pacior, Diversion Coordinator

Defendant's Signature