

# **DIVERT**

## **DIRECT INTERVENTION USING VOLUNTARY EDUCATION RESTITUTION & TREATMENT**

**This program is the postponement of prosecution in 1<sup>st</sup> offender Class B Misdemeanor DWI cases. In order to be eligible to be considered for the program a defendant must:**

- 1. Be a US citizen or legal resident alien;**
- 2. Never before been arrested/charged/convicted of any criminal offense, including juvenile offenses (An exception will be made for not guilty verdicts. An exception may be made for dismissed cases.)**
- 3. Submit to a DIVERT interview and testing conducted by the Harris County Community Supervisions and Corrections Department to evaluate alcohol/drug dependency as well as other pertinent matters that may affect eligibility.**

**After a DIVERT interview has occurred, if it is determined that a defendant is both eligible and an appropriate candidate for the program, an agreement will be tailored to the defendant with customized conditions of the program. If the defendant accepts the terms of the agreement, the defendant will be required to enter a plea of guilty to the offense of Driving While Intoxicated and agree to the punishment to be received in the event of violation of the conditions of the program. As part of the agreement the Defendant will waive the right to a jury trial, right to appeal from a finding of guilt and right to appeal from assessment of sentence.**

**The case will then be reset for a period of 12-24 months. If the defendant successfully completes all of the conditions of the agreement and treatment plan the case will be dismissed. After a period of 2 years from the date of the dismissal, the defendant may follow the statutory procedure and request expunction of the record.**

**If considering the DIVERT program for a defendant, please do the following:**

- 1. Meet with your client and determine citizenship status**
- 2. Counsel with your client regarding the use of alcohol/drugs while on bond**
- 3. Notify the court prosecutors of your client's interest in being considered for the program. Advise Prosecutor if your client DOES NOT speak English.**
- 4. Approach Prosecutor to have appointment set and provide Prosecutor with your client's next reset date, the client's availability, your name, and email address/fax number where the assessment report and DIVERT agreement may be sent.**
- 5. Advise your client of \$202.00 assessment fee that MUST be paid on the 6<sup>th</sup> floor of 49 San Jacinto St. at least 1 hour prior to the appointment.**
- 6. Accepted methods of payment include cash, money order, or a cashier's check made out to HCCSCD. Personal checks and credit cards are not accepted.**
- 7. Inform your client that after paying the assessment fee your client should report to the 4<sup>th</sup> floor of 49 San Jacinto St. for the assessment.**

**PLEASE NOTE:**

**Before a defendant charged with DWI may enter the Harris County District Attorney's DIVERT program, the defendant must be evaluated to determine the appropriate terms and conditions of the supervision program based on the individual needs and history of the defendant. Such evaluation may include any interviews or testing of the defendant deemed necessary by the District Attorney to facilitate the evaluation process.**

**If the defendant, after evaluation, chooses not to enter into the DIVERT program, the District Attorney agrees that any information directly or indirectly derived from any interviews or testing of the defendant during the DIVERT evaluation will not be used as evidence against the defendant in any criminal proceedings except for the purposes of impeachment, rebuttal, or cross-examination should the defendant testify or provide the court with information contrary to that provided in the evaluation process; or information learned from a source independent of the evaluation.**