



**MOTION FOR PRETRIAL DIVERSION
OF A CLASS D FELON
(ALSO FILE AOC 491 OR 491.2)**

Case No. _____
Court _____ Circuit
County _____

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

DEFENDANT

I, the above-named Defendant, am charged with the crime of _____,
a Class D felony. I am represented by Hon. _____.

I have applied to this Court and to the Commonwealth to participate in Pretrial Diversion and have moved this Court to enter my guilty plea **OR** plea pursuant to North Carolina v. Alford to the charged offense(s) as part of a plea agreement and a diversion agreement made between myself, with benefit of legal counsel, and the Commonwealth.

1. I have read the terms and conditions of diversion recommended by the Commonwealth. I have fully discussed the recommended terms and conditions of diversion with my attorney. My attorney has answered all my questions. I understand and agree to the terms and conditions of Pretrial Diversion as stated in paragraph (3) of this Motion.
2. I understand the judge may reject the diversion agreement. If the judge rejects the agreement, I understand I will be permitted to withdraw my plea and proceed to trial, or I may maintain my plea without participating in diversion and the judge will sentence me within the penalty range permitted by law.
3. The Commonwealth has recommended my case be diverted on the following conditions:
 - a. The period of diversion shall be _____.
 - b. The diversion is to be unsupervised **OR** supervised. A monthly supervision fee of \$ _____ shall be paid to Probation & Parole. (\$25.00 recommended; no less than \$10.00).
 - c. Restitution shall be paid to _____ in the amount of \$ _____ at the rate of _____.
 - d. Probation & Parole shall conduct home visits. Defendant shall not have access to a handgun firearm during the pendency of the diversion agreement.
 - e. Defendant shall obey all rules and regulations imposed by Probation & Parole.
 - f. As required by KRS 533.030(1), Defendant shall not commit another offense during the period of the diversion. Specifically, the defendant shall not violate the Penal Code or the Controlled Substances Act.
 - g. Defendant shall remain drug and alcohol free and be subject to random testing.

h. Other _____

4. I understand that if I successfully complete the conditions of diversion, the charge against me will be designated as "dismissed-diverted" and I will not be required to acknowledge the occurrence of the charge.
5. In the event Pretrial Diversion is ordered, I waive my right to a speedy trial.
6. I understand that if the Commonwealth alleges I have violated the terms and conditions of the diversion, the Court will schedule a revocation hearing and, upon completion of the hearing, make a finding as to whether I have failed to comply with the terms and conditions of Pretrial Diversion as ordered by the Court.
7. I understand that if the Court finds I have violated the terms and conditions of Pretrial Diversion, the Court will void the diversion order and schedule a sentencing hearing. At that hearing, the Court may impose the sentence recommended by the Commonwealth.
8. In return for my plea, the Commonwealth has agreed to recommend a sentence of _____
_____. I understand this is the maximum sentence the Court may impose under this plea agreement in the event the Court finds I have failed to successfully complete diversion.
9. I have freely, voluntarily, intelligently, and knowingly signed this Motion for Pretrial Diversion of a Class D Felony. I understand and agree to the terms and conditions stated herein.

Defendant's Signature

Date: _____, 2____.

Defense Attorney's Signature

Date: _____, 2____.

Commonwealth Attorney's Signature

Date: _____, 2____.