



**ORDER GRANTING PRETRIAL DIVERSION  
OF A CLASS D FELONY  
(ALSO FILE AOC 491 OF AOC 491.2)**

Case No. \_\_\_\_\_  
Court \_\_\_\_\_ Circuit \_\_\_\_\_  
County \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

DEFENDANT

**SECTIONS I.A. and I.B. TO BE COMPLETED BY PROSECUTOR:**

**I. A. With voluntary agreement of Defendant, the Commonwealth recommends to the Court the following terms and conditions of diversion:**

- 1. The recommended period of diversion shall be \_\_\_\_\_ days \_\_\_\_\_ months \_\_\_\_\_ years. (Not to exceed five (5) years without defendant's agreement. Duration of the diversion agreement shall not be less than the time required to make full restitution).
- 2. The diversion is to be  unsupervised  supervised. A monthly supervision fee of \$ \_\_\_\_\_ shall be paid to Probation & Parole. (\$25.00 recommended; no less than \$10.00)
- 3. Restitution shall be paid to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ at the rate of \_\_\_\_\_.
- 4. Probation & Parole shall conduct home visits. Defendant shall not have access to a  handgun  firearm during the pendency of the diversion agreement.
- 5. Defendant shall obey all rules and regulations imposed by Probation & Parole.
- 6. As required by KRS 533.030(1), Defendant shall not commit another offense during the period of the Pretrial Diversion. Specifically, Defendant shall not violate the Penal Code or the Controlled Substances Act.
- 7. Defendant shall remain drug and alcohol free and be subject to random testing.
- 8. Other \_\_\_\_\_

**B. The Commonwealth recommends \_\_\_\_\_**

**as the appropriate sentence to be imposed in the event Defendant fails to successfully complete the terms and conditions of the diversion and the Court voids the agreement.**

C. Counsel has explained to the defendant the terms and conditions of the Pretrial Diversion recommended by the Commonwealth. The defendant has agreed to the terms and conditions and has freely, voluntarily, intelligently and knowingly entered into the agreement with the Commonwealth.

**SECTIONS II AND III TO BE COMPLETED BY JUDGE:**

**II. THE COURT MAKES THE FOLLOWING FINDINGS OF FACT:**

- A. Defendant, appearing in court with counsel, Hon. \_\_\_\_\_, is charged with \_\_\_\_\_ a class D felony. He/She has applied to the Commonwealth and to the Court for Pretrial Diversion. He/She has not participated in a diversion program in the last five (5) years.
- B. Defendant has not had a felony conviction in the ten (10) years prior to commission of the current offense, nor has he/she been on probation or parole or been released from felony incarceration within the ten (10) years prior to commission of the current offense.
- C. Defendant has freely, knowingly, voluntarily and intelligently entered  a plea of guilty or  a plea pursuant to North Carolina v. Alford.
- D. Defendant is eligible for probation, parole or conditional discharge under KRS 532.045, as well as early release under KRS 189A.010(8) and KRS 189A.120(2).
- E. Defendant has waived the right to a speedy trial or disposition of the charge against him/her.
- F. The Commonwealth has  secured Defendant's criminal history;  interviewed the victim and/or the victim's family; and  made a written recommendation to the Court in response to the application for Pretrial Diversion.
- G. The Commonwealth has recommended Pretrial Diversion.

**III. NOW THEREFORE BE IT ORDERED:**

- A.  The Court **GRANTS** the Motion for Pretrial Diversion of a Class D Felony.  
 The Court **DENIES** the Motion for Pretrial Diversion of a Class D Felony.
- B. The Court imposes the following terms and conditions of Pretrial Diversion:
  - 1. The period of Pretrial Diversion shall be \_\_\_\_\_
  - 2. 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)
  - 3. Restitution shall be paid to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ at the rate of \_\_\_\_\_.
  - 4. Probation & Parole shall conduct home visits. Defendant shall not have access to a  handgun  firearm during the pendency of the Pretrial Diversion.
  - 5. Defendant shall obey all rules and regulations imposed by Probation & Parole.
  - 6. As required by KRS 533.030(1), Defendant shall not commit another offense during the period of the Pretrial Diversion. Specifically, Defendant shall have no violation of the Penal Code or the Controlled Substance Act.
  - 7. Defendant shall remain drug and alcohol free and be subject to random testing.
  - 8. Other \_\_\_\_\_

