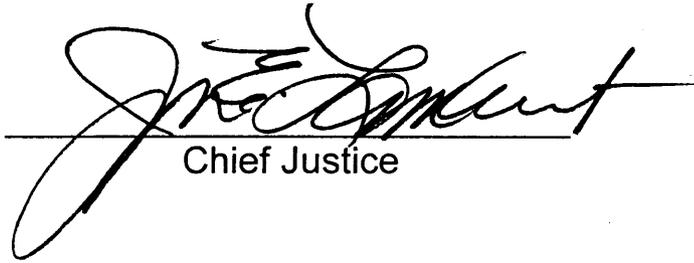


Supreme Court of Kentucky

Pursuant to KRS 533.250, signed into law in May, 1998, the Pretrial Diversion Program for Class D Felons submitted by the Third Judicial Circuit (Christian County) is hereby approved by the Kentucky Supreme Court and added to the Circuit's local rules.

Entered:

April 20, 1999


Chief Justice

**CLASS D FELONY DIVERSION
PROTOCOL FOR THE THIRD JUDICIAL CIRCUIT
(Christian County)**

Pursuant to KRS 533 the following Class D Felony Diversion Protocol is adopted for Christian County:

1. Persons Eligible

- A. Any person charged with a Class D Felony offense, who has not had a felony conviction for the previous ten (10) years from the commission of the current offense or who has not been on probation or parole or released from felony incarceration within the previous ten (10) years from the commission of the current offense shall be eligible for pre-trial diversion.
- B. The person charged must enter a plea of guilty (or Alford Plea) before becoming eligible for pre-trial diversion.
- C. Persons not eligible for probation, parole or conditional discharge under KRS 532.045 shall not be eligible for this program.
- D. A person convicted of a felony offense involving driving under the influence shall not be eligible for this program, pursuant to KRS Chapter 189.
- E. No person shall be eligible for this program more than once in any five (5) year period.

II. Procedure

- A. An eligible person may petition the circuit court with notice to the Commonwealth's Attorney, for the entry of a pre-trial diversion within sixty (60) days from arraignment.
- B. The Commonwealth's Attorney shall make a recommendation to the Court in writing in response to each petition.
- C. Before making a recommendation to the Court, the Commonwealth's Attorney shall:
 - 1. Have a criminal record check made;

2. Interview and seek input from the victim and/or the victim's family and advise them of the time, date and place of the hearing of the petition by the Court; and
3. Make recommendations to the Court in writing of conditions for pre-trial diversion.

III. Order of Pre-trial Diversion

- A. The Court may in its discretion order pre-trial diversion for eligible petitioners upon terms and conditions which it deems appropriate.

The Order shall include:

1. Restitution, if applicable;
 2. That the diversion shall be supervised (and include supervision fees, if applicable);
 3. Duration of the diversion;
 4. That the petitioner remain drug and alcohol free and be subject to random testing;
 5. That the petitioner have no violation of the Penal Code or the Controlled Substances Act;
 6. That the petitioner possess no firearm or any other deadly weapon;
 7. Any other provision of KRS 533.030 or any other condition which the Court deems appropriate.
- B. The duration of pre-trial diversion shall not exceed five (5) years without the agreement of the petitioner, except in cases where court ordered restitution is not paid within five (5) years. The duration of the diversion shall not be less than the time required to make restitution in full.

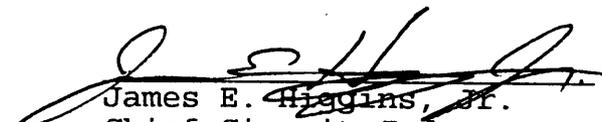
IV. Revocation

- A. After a hearing, on notice by the Commonwealth's Attorney, the Court may revoke or void a person's pre-trial diversion program upon a showing of failure to comply with the conditions of diversion or failure to make satisfactory progress.
- B. If a pre-trial diversion program is revoked or voided, the defendant shall be sentenced according to law, based on his or her prior plea of guilty.

V. Completion of Diversion Program

If the defendant successfully completes the provisions of the pre-trial diversion agreement, the charges against the defendant shall be dismissed.

Approved, this the 9th day of March, 1999, by James E. Higgins, Jr., Chief Circuit Judge, and John L. Atkins, Commonwealth's Attorney, to be effective immediately.


James E. Higgins, Jr.
Chief Circuit Judge
Christian Circuit Court


John L. Atkins
Commonwealth's Attorney