



**OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS**

ANITA ALVAREZ
STATE'S ATTORNEY

CRIMINAL PROSECUTIONS BUREAU
2650 S. CALIFORNIA AVE
CHICAGO, IL 60608

Cook County State's Attorneys Office
Deferred Prosecution Program

The State's Attorneys Office Deferred Prosecution Program is a diversion program for adult felony offenders without a prior felony conviction that have been arrested for committing a specified non-violent felony offense. The State's Attorneys Office has set the guidelines for this diversion program, and the Assistant State's Attorneys assigned to the Felony Preliminary Hearing courtrooms will determine whether a defendant will be offered the opportunity to participate in this program. This Deferred Prosecution Program will divert selected non-violent felony defendants without a prior felony conviction into an intensive twelve (12) month pre-indictment program and offer services to the defendants with the goal of these defendants avoiding future criminal behavior. When a defendant successfully completes this intensive year-long program, the State's Attorneys Office will exercise its prosecutorial discretion and dismiss the felony charge. Should a defendant fail, the felony case will proceed to a felony courtroom, where prosecution of the defendant will continue.

Included Offenses

1. Only probationable offenses of Theft, Retail Theft, Forgery, Possession of a Stolen Motor Vehicle, Burglary, Possession of Burglary Tools, Possession of Cannabis, Possession of a Controlled Substance, and Possession of Methamphetamine.
2. A defendant is not eligible for this Program if he or she has been arrested for Delivery of a Controlled Substance, Delivery of Methamphetamine, or Delivery of Cannabis, or if the defendant's case includes evidence of an intent to deliver or manufacture. A defendant is

also not eligible for this Program if the offense for which he or she has been arrested is a violent offense. For purposes of this Program, a “violent offense” is any offense where bodily harm was inflicted or where force was used against any person or threatened against any person; any offense involving sexual conduct, sexual penetration, or sexual exploitation; any offense of domestic violence, domestic battery, violation of an order of protection, stalking, hate crime, driving under the influence of drugs or alcohol, and any offense involving the possession of a firearm or dangerous weapon.

Defendant Eligibility

1. No age limitation on adult defendants.
2. No prior felony conviction.
3. No prior misdemeanor conviction for a “violent offense” as previously defined.
4. A defendant can participate in this Program only one time.
5. A defendant’s previous participation in the Cook County State’s Attorneys Office Drug School Program does not render defendant ineligible for participation in this Program.

THE DETERMINATION OF WHETHER TO OFFER PARTICIPATION IN THIS PROGRAM TO AN INDIVIDUAL DEFENDANT IS WITHIN THE SOLE DISCRETION OF THE STATE’S ATTORNEYS OFFICE.

AGREEMENT

Participation Requirements

1. Defendant in this case understands the statutory provision for a Preliminary Hearing. 725 ILCS 5/109-3. The People do not demand a preliminary hearing in this case, and both the People and defendant waive a Preliminary Hearing. 725 ILCS 5/109-3(b).
2. Defendant understands the statutory right to a speedy trial in this case. 725 ILCS 5/103-5. Defendant waives the right to a speedy trial in this case.
3. *Defendant agrees to follow all of the requirements and conditions of this Program.*
4. Defendant has not previously been a participant in the State's Attorneys Office Deferred Prosecution Program.
5. Defendant understands this Deferred Prosecution Program is for one year (twelve months).
6. Defendant does not have any other felony case pending in any court.
7. Defendant has no prior felony conviction from any jurisdiction.
8. Defendant has no prior misdemeanor conviction from any jurisdiction for a "violent offense" as previously defined.
9. Defendant understands that misrepresentation of his or her criminal history will constitute failure of the entire Program.
10. A failure of *any one* of the requirements or conditions of this Program will constitute a failure of the entire Program and will cause an Information to be filed by the State's Attorneys Office and will cause this case to be placed on the Arraignment call of the Presiding Judge for assignment of this case to a felony courtroom.

Conditions

1. Defendant will not violate *any* criminal law of the United States, the State of Illinois, any other State, or any municipality.
2. Defendant shall not possess a firearm, firearm ammunition, knife, bludgeon, or any other deadly weapon.
3. Defendant shall not possess cannabis, methamphetamine, any controlled substance, or any other drug not authorized by a doctor's prescription.

4. Defendant must make full restitution to the victim or property owner.
5. Defendant must obtain employment. If defendant is not able to find employment, defendant must perform no less than ninety-six (96) hours of community service.
6. If defendant has not completed high school, defendant must attend high school classes with the goal of obtaining a high school diploma, or study and take, as many times as necessary to pass, the test of General Educational Development (G.E.D.) or work toward completing a vocational training program.
7. If needed, defendant must undergo treatment for drug abuse, drug addiction, or alcohol abuse.
8. Defendant must attend all scheduled court dates and appointments with Pre-Trial Services.
9. Defendant and the State's Attorneys Office agree that satisfactory completion of *all of the conditions* of this twelve (12) month Deferred Prosecution Program will result in the Assistant State's Attorney dismissing the present felony charge and the State's Attorneys Office not objecting to defendant's request for expungement of this case.
10. Defendant states that he or she has reviewed the eligibility requirements and the conditions of this Deferred Prosecution Program with his or her attorney and understands all of them.

Assistant State's Attorney

Defendant

Date

Attorney for Defendant

ARDC Number



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Cook County State's Attorneys Office Deferred Prosecution Program
Property Owner's Consent to Defer Prosecution

People v. _____
(Defendant)

Offense: _____

R.D. Number: _____

On _____, _____ was
contacted, (Date) (Victim/Property Owner)

and all of the conditions of the Deferred Prosecution Program, including the making of full
restitution by the defendant, were explained. He/she:

agreed

did not agree

that prosecution of the present case would be deferred.

Assistant State's Attorney



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Organization of Deferred Prosecution Program

1. On the date of preliminary hearing, the Assistant State's Attorney assigned to preliminary hearings will make the offer of the Deferred Prosecution Program to defense counsel. This will be done after the Assistant State's Attorney has reviewed the police reports, defendant's criminal history, and obtained the consent of the property owner. After defendant, defense counsel, and the Assistant State's Attorney sign the written Agreement, the preliminary hearing trial judge makes a record of the Agreement, and the preliminary hearing is waived. The case is given a short continuance and transferred to the designated courtroom where the cases in the Deferred Prosecution Program are handled.
2. A courtroom at 26th and California will be designated to handle these cases during the afternoon call on a pre-determined date. The trial judge will be a Central Bond Court trial judge. This court call will be handled by the Assistant State's Attorneys assigned to Central Bond Court. The Cook County Public Defender's Office will also provide Assistant Public Defenders for this court call.
3. To maintain consistency, all Deferred Prosecution Program cases from the Chicago and Suburban preliminary hearing courtrooms will be transferred to this designated courtroom.
4. On the scheduled court date, the trial judge, Assistant State's Attorney, and defense counsel will monitor each defendant's progress in the Program. Each case will be given a two or three month continuance to check the progress of each defendant.

5. At the end of the year-long Program, the Assistant State's Attorney will nolle pros the case if the defendant has successfully completed all the requirements of the Deferred Prosecution Program.
6. When a defendant violates any of the Program's conditions or fails to satisfy all the Program's conditions at the end of one year, the Assistant State's Attorney will put the violation on the record and request an Arraignment date. The Assistant State's Attorney will prepare the charging sheets and send the file through the regular process for Arraignment and assignment to a felony courtroom.
7. When a defendant has been arrested for committing another felony offense, a Petition to Revoke Bail should be filed. Both cases should be given the same continuance date, Arraignment date, and assigned to the same felony courtroom.