

OFFICE OF THE PROSECUTING ATTORNEY DANIEL R. LUTZ
WAYNE COUNTY, OHIO

www.countyprosecutor.com

Civil Division
Felony Division
Juvenile Division
115 W. Liberty Street
Wooster, OH 44691
(330) 262-3030
Fax: (330) 287-5412



Misdemeanor Division
215 N. Grant Street
Wooster, OH 44691
(330) 287-5633
Fax: (330) 287-5696

Today's_Written_Date

DEFENDANT_NAME

DEFENDANT_ADDRESS_ML

Re: POSSIBLE MISDEMEANOR DIVERSION ELIGIBILITY

Dear Defendant_Name,

This office has reviewed an investigative report from a law enforcement agency alleging that you have committed one or more criminal violations on [Offense Date] for [Offense]. However, you have been preliminarily screened as a possible candidate for this office's Misdemeanor Diversion Program (MDP). I encourage you to carefully review the enclosed materials regarding MDP and decide whether or not you want to apply to participate in it.

If you apply, and if you are accepted into the program, and if you successfully complete the program, you will not be charged with the alleged offenses. If you do not apply, or if you do not get accepted into MDP or, if accepted, do not successfully complete MDP, you will be charged criminally. Applying for MDP is completely voluntary on your part. If you have any questions about whether or not you should participate in MDP, you should consult with an attorney.

Please note that you must pay the \$150.00 supervision fee to the *Wayne County Clerk of Courts at 215 N. Grant Street, Wooster, Ohio 44691*, and return the completed application and other requested paperwork to ***Diversion Coordinator, Office of the Prosecuting Attorney, 115 W. Liberty Street, Wooster, Ohio 44691, no later than fourteen (14) days from the date of this letter***, in order to be further considered for MDP. This fee is refundable if you are not accepted into MDP.

Thank you for your consideration.

Sincerely,

Office of the Wayne County, Ohio Prosecuting Attorney

Encls.



The Wayne County Prosecutor’s Office Misdemeanor Diversion Program

Pursuant to R.C. 2935.36, a prosecuting attorney may establish a pretrial diversion program for certain nonviolent criminal defendants whom the prosecuting attorney believes will not likely reoffend. The Wayne County Prosecuting Attorney hereby establishes the Wayne County Misdemeanor Diversion Program (MDP), which is a pretrial diversion program. The goals of the MDP are as follows:

1. Reduce the municipal court criminal case load;
2. Reduce the prosecutors’ criminal case load;
3. Improve collection of restitution; and
4. Reduce recidivism as demonstrated by participants who successfully complete MDP are not convicted of new offenses for a period of five years.

Pretrial diversion allows qualifying individuals to be placed under probation-like supervision for a period up to one (1) year. Participation in the pretrial diversion program requires the offender to: pay a supervision fee; to waive certain rights including, but not limited to, speedy trial and statutes of limitations; to give a complete detailed and accurate statement admitting guilt; and obey all laws and conditions of the program. Upon successful completion of MDP, criminal charges will not be filed, or refiled, against an offender avoiding the stigma and disabilities occasioned by a criminal prosecution and conviction. Failure to successfully complete MDP will result in criminal prosecution.

CRITERIA FOR DIVERSION

Non-violent, non-repeat offenders are eligible for MDP. In compliance with R.C. 2935.36, anyone meeting one or more of the following criteria shall not be eligible for pretrial diversion:

1. A “repeat offender” as defined by R.C. 2935.36(E)(1)ⁱ
2. A “dangerous offender” as defined by R.C. 2935.36(E)(2)ⁱⁱ
3. Anyone accused of an “offense of violence” as defined by R.C. 2901.01(A)(9)ⁱⁱⁱ and certain additional offenses listed at R.C 2935.36(A)(2), as follows:

Aggravated Vehicular Assault	2903.06	Riot	2917.03
Assault	2903.13	Unlawful Abortion	2929.121
Aggravated Menacing	2903.21	Endangering Children	2919.22
Menacing by Stalking	2903.211	Interference with Custody	2919.23
Menacing	2903.22	Domestic Violence	2919.25
Unlawful Sexual Conduct	2907.04	Intimidation of a Witness	2921.04
Disseminating Matter Harmful	2907.31	Obstructing Justice	2921.32
Aggravated Arson	2909.03	Discharging a Firearm	2923.16
Arson	2909.03	Unlawful Weapons Transaction	2923.20
Inciting to Violence	2917.01	OVI	4511.19

4. A person charged with a violation of Chapter 2925 or 3719 of the Revised Code;
5. A drug dependent person^{iv} or person in danger of becoming a drug dependent person.^v

EXCEPTIONS

The Prosecuting Attorney, acting through any Assistant Prosecutors, may permit offenders accused of offenses listed above to apply for participation in MDP if it is determined that the following factors are present, and provided all other criteria for eligibility are met, including:

1. The offender did not cause, threaten or intend physical harm to any person;
2. The offense was the result of circumstances not likely to recur;
3. The offender has no history of prior delinquency or criminal activity;
4. The offender has led a law abiding life for a substantial period of time before the commission of the current offense; and
5. There exists substantial extenuating or mitigating circumstances surrounding the commission of the offense.

PROCEDURES FOR APPLICATION

Prior to charges being filed, the Wayne County Prosecutor's Office will send an eligible offender a packet containing information regarding the MDP. The eligible offender may apply for MDP by filing a written application with the Diversion Coordinator **within 14 days from the date of the cover letter accompanying the packet**. The offender must pay upfront supervision fee of \$150.00 to the Wayne County Clerk of Courts, and include a copy of a receipt of payment with the application. The entire fee is due at the time of application for the supervision of the eligible offender and is refundable if the eligible offender is not accepted into MDP. Simultaneously, the offender must waive in writing his or her right to speedy trial pursuant to R.C. 2945.71, and right to a speedy trial pursuant to the Constitution of the State of Ohio and of the United States. The offender must also waive any statutory limitation of action. All waiver forms are included in the MDP application packet.

Alternatively, after a complaint is filed, an eligible defendant may apply for MDP by filing a written application with the MDP Coordinator **within 14 days of receiving notice of possible eligibility**. The defendant must pay the \$150.00 supervision fee to the Wayne County Clerk of Courts, and include a copy of a receipt of payment with the application. The entire fee is due at the time of application for the supervision of the eligible offender and is refundable if the eligible offender is not accepted into MDP. Simultaneously, the defendant must waive in writing his or her right to speedy trial pursuant to R.C. 2945.71, and right to a speedy trial pursuant to the Constitution of the State of Ohio and of the United States. The defendant must also waive any statutory limitation of action. All waiver forms are included in the MDP application packet.

The offender must waive any statute of limitation for a potential criminal case. The waiver form is included in the MDP application packet. Potential participants are encouraged to seek legal counsel should they have questions about their rights or MDP.

The MDP Coordinator will conduct an investigation covering such areas as prior delinquent

and/or criminal activity, education, employment, military service, marital circumstances, family life, home conditions, substance abuse and physical and mental health. This investigation shall include requiring a written statement from the applicant admitting guilt to the offense. This statement will only be used as evidence if the applicant is later terminated from the MDP.

While the background check is being conducted, the Prosecuting Attorney's office will send notification of the offender's diversion application to the victim of the offense and the involved law enforcement officer, either of whom may lodge an objection. However, an objection lodged, while considered, will not necessarily preclude the offender's acceptance into the program. If a loss was incurred as a result of the offender's conduct, a restitution amount will be determined based on the forms and documentation returned to the Prosecutor's Office by the victim.

MDP SUPERVISION

An applicant will execute the following:

1. Consent to Search;
2. Forfeiture Agreement (if applicable);
3. Restitution Agreement (if applicable);
4. Consent to Release Information;
5. Rules of MDP, which shall include the terms, conditions and length of supervision;
6. A written statement containing an admission of guilt;
7. Waiver of statute of limitations; and
8. Waiver of speedy trial, if applicable.

The period of supervision, generally will be up to one (1) year beginning from the date of acceptance of the applicant into MDP. However, applicants may not be released from program supervision until all conditions are satisfied, unless they are otherwise unsuccessfully terminated for failing to meet all conditions within the one (1) year time period. Extension of supervision can be granted upon recommendation of the MDP Coordinator and/or Prosecuting Attorney, but such extensions shall be the exception and not the norm.

The applicant will be supervised as if on community control, with the exception that the applicant cannot be arrested by an officer of the court. All other policies and procedures for applicant under community control will apply.

SUCCESSFUL COMPLETION

If the applicant successfully completes MDP, fulfilling all terms and conditions, the Prosecuting Attorney will not file charges against the applicant in regard to the diverted offense.

TERMINATION

If an applicant is not approved for MDP, or chooses not to enter MDP, or violates any of the conditions of MDP, he/she may be prosecuted to the fullest extent of the law.

Since there is no formal adjudication of guilt or innocence in MDP, the applicant has no right to a formal revocation hearing. If the MDP Coordinator alleges that the applicant has violated any conditions of the program, a written notice outlining those violations will be given to the applicant. The applicant will either be continued in pretrial diversion, possibly with additional conditions, or recommended for program termination.

The MDP Coordinator will have the final approval of a decision to terminate an applicant as unsuccessful. If the applicant is terminated, he/she may be charged and the waivers and admissions shall be enforceable against the applicant.

ⁱ RC 2935.36 (E)(1) provides: "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that the person will commit another offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:

- (a) Having been convicted of one or more offenses of violence and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense of violence;
- (b) Having been convicted of one or more sexually oriented offenses or child-victim oriented offenses, both as defined in section 2950.01 of the Revised Code, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent sexually oriented offense or child-victim oriented offense;
- (c) Having been convicted of one or more theft offenses as defined in section 2913.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those theft offenses, the person commits a subsequent theft offense;
- (d) Having been convicted of one or more felony drug abuse offenses as defined in section 2925.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those felony drug abuse offenses, the person commits a subsequent felony drug abuse offense;
- (e) Having been convicted of two or more felonies and having been imprisoned pursuant to sentence for one or more felonies, the person commits a subsequent offense;
- (f) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

ⁱⁱ RC 2935.36(E)(2) provides: "Dangerous offender" means a person who has committed an offense, whose history, character, and condition reveal a substantial risk that the person will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences.

ⁱⁱⁱ RC 2901.01(A)(9) provides: "Offense of violence" means any of the following:

- (a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;
- (b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;
- (c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
- (d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

^{iv} RC 3719.011(B) Defines a "Drug dependent person" to mean any person who, by reason of the use of any drug of abuse, is physically, psychologically, or physically and psychologically dependent upon the use of such drug, to the detriment of the person's health or welfare.

^v RC 3719.011(C) defines a "Person in danger of becoming a drug dependent person" to mean any person who, by reason of the person's habitual or incontinent use of any drug of abuse, is in imminent danger of becoming a drug dependent person.



The Wayne County Prosecutor's Office Misdemeanor Diversion Program
MISDEMEANOR PROGRAM APPLICATION

Personal Information:

Name:

Last _____ First _____ Middle _____

Address:

Street _____ City _____ State _____ Zip _____

Phone:

Home _____ Work _____ Cell _____

Date of Birth: _____ SSN: _____

Age: _____ Sex: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

Employment:

Employer name: _____

Employer address: _____

Employer telephone: _____

Emergency Contact:

Name: _____ Place of Birth _____

County of Residence: _____ Phone: _____

Relationship to Applicant: _____

Transportation:

Driver's License status: Valid Suspended If suspended, why? _____

Driver's License Number: _____ Issuing State: _____

Prior Convictions:

Please list all prior convictions and/or juvenile adjudications and date of conviction/adjudication

Additional Information:

Please provide any additional information that you feel would be helpful in determining your eligibility for the diversion program:

I certify that the above information is true and accurate to the best of my knowledge. ANY FALSE STATEMENTS OR INCOMPLETE INFORMATION WILL BE THE BASIS FOR REJECTION OF THE APPLICANT FOR THE DIVERSION PROGRAM OR REVOCATION OF THE APPLICATION FOR DIVERSION.

Applicant Signature

Date

Applicant Name (PLEASE PRINT)

Date

Attorney Signature (if applicable)

Date

Attorney Name (PLEASE PRINT)

Date



The Wayne County Prosecutor's Office Misdemeanor Diversion Program
GENERAL RULES

(To be completed/signed by applicant and counsel (if applicable))

Today's_Written_Date

You are eligible to be considered for participation in the Wayne County Misdemeanor Pretrial Diversion Program (MDP). MDP is designed for persons who: (1) are or could be charged with non-violent, non-drug-related, eligible offenses; (2) have no previous serious criminal convictions or pattern of adult or juvenile criminal behavior; and (3) present low risk to engage in further criminal activity.

You **must** pay the \$150.00 supervision fee upfront to the Wayne County Clerk of Courts before you will be further considered for participation. The entire fee is due at the time of the application for your supervision and is refundable if you are not accepted into MDP.

The MDP requires the waiver of substantial rights including an admission of guilt, waivers of speedy trial and the applicable statute of limitations, and relinquishment of any rights in regard to seized property. This admission will only be used against a program participant who is terminated from MDP. **YOU ARE STRONGLY ENCOURAGED TO CONSULT WITH LEGAL COUNSEL BEFORE WAIVING THESE RIGHTS.**

If you are accepted into MDP, you will be under supervision for a minimum of six (6) months up to one (1) year, depending on the charge(s), restitution owed, court costs, fines, fees, etc. You will be required to sign a Diversion Agreement, and other forms which will specify your obligations while under supervision. These obligations will/may include appointments with your Diversion Coordinator, payment of restitution, court costs, fines, probation fees, if any, community service work for a non-profit organization, treatment for alcohol, substance abuse, and /or mental health issues, as applicable.

Failure to abide by any/all of the conditions in the Diversion Agreement will result in your termination from MDP. If this happens, your case will be prosecuted in the same manner as it would have, had you not participated in MDP.

Upon successful completion of MDP, charge(s) will not be filed, or re-filed, against you. Nor will a conviction appear on your criminal record, and you will be eligible to apply to seal any arrest record in this case under Ohio Revised Code, Section 2953.52, to which the State will not object.

Please return the application to the Diversion Coordinator within fourteen (14) days of the date of this letter. If you have questions about the application, please contact Diversion Coordinator Jill Spidell at (330) 262-7907, or jspidell@countyprosecutor.com, or at 115 West Liberty St. Wooster, OH 44691.

Please review the above information carefully. Direct any questions to your legal counsel.

Applicant Signature _____ Date _____

Counsel Signature _____ Date _____
(If applicable)



The Wayne County Prosecutor's Office Misdemeanor Diversion Program
CRITERIA FOR ACCEPTANCE
(To be completed/signed by applicant)

The following outlines the criteria for acceptance into the Misdemeanor Diversion Program (MDP):

1. Diversion **shall not be available** to any of the following:
 - A. Repeat offenders. Repeat offenders are those with a history of persistent criminal activity and whose character and condition reveal a substantial risk that the offender will commit another offense. (See Section 2935.36 in reference to prima-facia evidence);
 - B. Dangerous offenders (2929.01). Dangerous offenders are those who have a committed an offense; whose history, character, and condition reveal them as dangerous; and whose conduct shows a pattern of repetitive, compulsive, or aggressive behavior without thought for consequences; and
 - C. The potential charge(s) must be non-violent and, with the exception of minor misdemeanor marijuana possession, not drug related.
2. The applicant must admit his/her guilt in regards to the potential charge(s) in a written statement. (Please attach written statement). This admission will only be used against a program participant who is terminated from MDP.
3. The applicant must consent to a periodic criminal record checks.
4. The applicant must be willing to make him/herself available for appointments with the Diversion Coordinator and /or other referred agency.
5. The Diversion Coordinator must approve the applicant's acceptance into MDP.
6. If called to testify either for or against a defendant in a criminal prosecution for the incident for which the applicant receives diversion, the applicant must not invoke his right to be silent.
7. The applicant must pay the \$150.00 supervision fee to MDP via the Wayne County Clerk of Courts. The entire fee is due upfront at the time of the application for supervising applicant and is refundable if the applicant is not accepted into MDP.

8. The applicant must be willing to pay restitution, program fees, and perform community service with a non-profit community service organization approved by the Diversion Coordinator.
9. If restitution is owed, the applicant must be employed or have an ability to repay restitution within one (1) year.
10. The applicant must submit to screening, evaluation and treatment for alcohol, and/or other substance abuse issues, and/or mental health issues, if applicable. The applicant must authorize release of information if screened, evaluated and /or treated for these issues.
11. The applicant must not leave the county of his/her residence without permission from the Diversion Coordinator. Written permission must be obtained before leaving the State of Ohio.
12. The applicant must obey all federal, state, and local laws, and report any new arrests, charges, or other contacts with law enforcement officers to the Diversion Coordinator.
13. The applicant must follow all rules and conditions set forth by the Diversion Coordinator and the Wayne County Prosecuting Attorney (which includes giving up substantial constitutional rights).

Applicant Signature _____ Date _____



**The Wayne County Prosecutor's Misdemeanor Diversion Program
PARTICIPATION AGREEMENT**

(To be completed/signed by defendant and counsel (if applicable))

Diversion is a VOLUNTARY program established by the Prosecutor according to Ohio Revised Code section 2935.36. The Misdemeanor Diversion Program (MDP) is made available to certain defendants by the courts on an entirely VOLUNTARY basis. Your successful participation will result in no charges being filed against you for this incident. In order to become enrolled as a participant, you must agree to the following conditions and initial each condition as acknowledgment of agreement.

_____ 1. I understand MDP is entirely VOLUNTARY and agree to participate.

_____ 2. I understand that the Diversion Coordinator must approve my acceptance into MDP.

_____ 3. I understand that I must waive the application of any relevant statute of limitations in order to participate in MDP.

_____ 4. I understand that under the Ohio Constitution and the Revised Code of Ohio, I have the right to a speedy trial. In order to participate in MDP, I must waive that right.

_____ 5. I understand that I must provide a written statement describing the incident giving rise to these potential charges and I must admit guilt to the potential charges. I understand these statements may be used against me should I be terminated or elect to withdraw from MDP.

_____ 6. I understand that I may withdraw from MDP at any time but, if I do so, charges will be filed against me.

_____ 7. I agree not to commence any legal action against the Prosecuting Attorney and/or his designee, the victim/complainant, and/or the investigating law enforcement agency.

_____ 8. I agree to obey all federal, state and local laws and I will report any new arrests, charges or other contacts with law enforcement to the Diversion Coordinator.

_____ 9. I consent to the Wayne County Prosecutor and/or the Diversion Coordinator performing periodic checks of my criminal record.

_____ 10. I understand that if I am charged with another criminal charge, either before I am accepted into MDP or while I am in MDP, I am subject to immediate removal from MDP consideration or participation and a prosecution may be commenced.

_____ 11. I understand that serious traffic offenses (OVI, DUS, No OL, etc.) will be considered as charges that may result in my termination from MDP.

_____ 12. I understand that I must report any prior criminal record as a juvenile and as an adult when applying for MDP. I understand that failure to report prior conviction(s) or new charge(s) may result in my removal from the program even if I am found not guilty of the new charge(s).

_____ 13. I understand that I must not be involved in the use, possession or sale of any drugs that are on Controlled Substances Schedules I, II, III, or IV, or other illegal drugs or mood altering substances or intoxicants (i.e. K2, spice, bath salts, duster, etc.) even if they have not been added to the drug schedules maintained by the DEA and/or listed in the Ohio Revised Code.

_____ 14. I understand that I must attend all appointments that are arranged with other agencies or service providers as part of my diversion participation conditions. I understand that any missed appointment or tardiness may be grounds for removal from MDP.

_____ 15. I understand that I must fulfill all requirements set forth by the Wayne County Prosecutor's Office. These requirements include, but are not limited to, the following:

- a. I must receive and actively participate in any and all counseling deemed necessary;
- b. I must participate in any career counseling or other career programs deemed necessary;
- c. I must follow all of the rules of MDP;
- d. I must pay all costs associated with MDP; and
- e. Participation in MDP for up to twelve (12) months or longer at the discretion of the Diversion Coordinator, if deemed necessary, if all conditions have not been met.

_____ 16. I further agree to the following special conditions, if applicable:

- a. No contact with victim(s);
- b. Pay restitution as determined by the Wayne County Prosecutor's Office;
- c. Attendance at all Diversion programming;
- d. I may be required to testify against defendant(s) in related criminal prosecutions and, if so, I must not invoke my right to remain silent; and
- e. Performance of Community Service hours as determined by the Diversion Coordinator.

_____ 17. I understand that failure to fulfill any of the obligations outlined in this document and other documents as referenced herein may be considered sufficient reason to terminate my participation in the MDP and commence a prosecution against me.

_____ 18. I understand that I may be terminated from MDP in the sole discretion of the Prosecuting Attorney for any of the reasons stated herein or in related documents, and hereby waive any right to further hearing if terminated from the program.

_____ 19. I understand that I must pay upfront the \$150.00 supervision fee to MDP via the Wayne County Clerk of Courts. I also understand the entire fee is due at the time of the application for my supervision and is refundable if I am not accepted into MDP.

I agree that I have read, initialed and understand the general rules of the MDP. I also understand if I successfully abide by all terms set forth by the MDP, the Wayne County Prosecutor's Office will not file charges against me in regards to this incident.

Applicant Signature

Date

Counsel Signature
(if applicable)

Date



**Wayne County Prosecutor's Misdemeanor Diversion Program
WAIVER FORM**

(To be completed/signed by defendant and counsel (if applicable))

Applicant's Name: _____

You have requested to participate in the Wayne County Prosecutor's Misdemeanor Diversion Program (MDP). To be considered, you must waive or give up certain constitutional or statutory rights, as follows:

- 1) Under the United States and Ohio Constitution, you have **the right to remain silent** in regard to the pending charge(s).

To apply to participate in MDP, you must give up your right to remain silent which includes submitting a complete, detailed, and accurate statement admitting your involvement/guilt concerning the pending charge(s). If you are not accepted into MDP, the statement will not be used against you. If you are accepted into MDP and you successfully complete all of the requirements of MDP, the statement will not be used against you. If you are accepted into MDP, but you are terminated from MDP, then the criminal proceedings against you will resume and the statement **can and will** be used against you as evidence in a criminal trial.

I UNDERSTAND I HAVE A RIGHT TO REMAIN SILENT. I WAIVE THAT RIGHT AND AGREE TO GIVE A STATEMENT ADMITTING MY INVOLVEMENT.

Initial: _____ Date: _____

- 2) Under the United States Constitution and the Ohio Constitution, you have the right **not to be compelled to testify** in all proceedings in which you are a criminal defendant.

If you elect to participate in MDP, you will give up this right, and you may be required to testify in court proceedings against defendant(s) facing criminal prosecution.

I UNDERSTAND THAT I CANNOT BE COMPELLED TO TESTIFY. I WAIVE THAT RIGHT AND, IF REQUIRED, I WILL TESTIFY AGAINST DEFENDANT(S) IN ANY CRIMINAL PROCEEDINGS REGARDING FACTS OF WHICH I HAVE PERSONAL KNOWLEDGE. Initial: _____ Date: _____

- 3) Under the United States Constitution and the Ohio Constitution, you have the **right to a speedy trial**. To apply to participate in MDP, you must waive this right, and your case may be continued until such time you are brought to trial should you be denied participation in MDP or if you are terminated from MDP.

I UNDERSTAND THAT I HAVE A RIGHT TO A SPEEDY TRIAL. I WAIVE OR GIVE UP MY RIGHT TO A SPEEDY TRIAL. Initial: _____ Date: _____

- 4) Under the United States Constitution and the Ohio Constitution, you have the right to a jury trial or trial to the Court, the right to confront witnesses against you, the right to compulsory process for obtaining witnesses in your favor, the right to require the State to prove your guilt beyond a reasonable doubt, and the right not to testify against yourself. To apply to participate in MDP, you must waive your right to a jury or bench trial at which you cannot be compelled to testify against yourself, at which the State must prove your guilt by proof beyond a reasonable doubt, and at which you have the right to compel witnesses to appear and testify on your behalf.

I UNDERSTAND THAT I HAVE CONSTITUTIONAL RIGHTS TO A JURY TRIAL OR TRIAL TO THE COURT, THE RIGHT TO CONFRONT WITNESSES AGAINST ME, THE RIGHT TO COMPULSORY PROCESS FOR OBTAINING WITNESSES IN MY FAVOR, THE RIGHT TO REQUIRE THE STATE TO PROVE MY GUILT BEYOND A REASONABLE DOUBT AND THE RIGHT NOT TO TESTIFY AGAINST MYSELF. I WAIVE OR GIVE UP ALL THESE CONSTITUTIONAL RIGHTS. Initial: _____ Date: _____

- 5) Under the law of Ohio, prosecution of your case must be commenced within a **statutory limitation** period, generally two (2) years, from the date of the offense or its discovery.

To apply to participate in MDP, you must waive your right to have the prosecution of your case commence according to the provisions of the statute of limitation. The limitation period shall be tolled until such time you are terminated from MDP.

I WAIVE MY RIGHT TO OBJECT TO ANY FAILURE TO COMMENCE MY CASE WITHIN THE STATUTORILY PRESCRIBED PERIOD OF TIME. Initial: _____ Date: _____

- 6) Under the United States Constitution and the Ohio Constitution, you have the right to remain free from **search and seizure without warrant of your property and person**.

To apply to participate in MDP, you must waive this right, and you may be requested to submit to urine, hair, and/or blood samples for testing to detect controlled substances, or for identification purposes.

I WAIVE MY RIGHT TO BE FREE FROM WARRANTLESS SEARCHES AND SEIZURES. I AGREE TO GIVE URINE, HAIR OR BLOOD SAMPLES AS REQUESTED BY THE DIVERSION OFFICER, OR ANY LAW ENFORCEMENT OR PROBATION OFFICER. Initial: _____ Date: _____

- 7) Under Federal and Ohio laws and regulations, **confidential information or records** concerning medical or mental or other treatment may not be disclosed without a person's permission.

To apply to participate in MDP, you must waive the right to keep such records confidential, and agree to release such information, and to submit to recommended treatment.

I HEREBY CONSENT TO RELEASE OF ANY PERTINENT MEDICAL, MENTAL OR OTHER INFORMATION, AND I AGREE TO SIGN DOCUMENTS THAT ALLOW RELEASE OF THE SAME. Initial: _____ Date: _____

- 8) Property may have been taken from you at the time of your arrest. Under Ohio Law, in order for the State to keep the property, it must file **forfeiture** petitions with the Court in a timely fashion. Under Ohio law, you may challenge the State's right to keep your property, if it is not contraband or a criminal tool.

To apply to participate in MDP, you must waive all statutory periods in regard to forfeiture of seized property. You must agree to relinquish to a law enforcement agency and forfeit ownership of any seized weapons and any other property considered contraband or a criminal tool,

I WAIVE MY RIGHT TO CONTEST THE STATUTORY TIME PERIODS UNDER CHAPTER 2981 OF THE OHIO REVISED CODE FOR ANY FORFEITURE ACTIONS FILED REGARDING PROPERTY TAKEN FROM ME AT THE TIME OF MY ARREST. Initial: _____ Date: _____

- 9) To apply to participate in MDP, you will be subject to the **rules and conditions** of MDP as provided by your Diversion Agreement.

I AGREE TO ABIDE BY THE RULES AND CONDITIONS OF MDP.
Initial: _____ Date: _____

I state that I have read and understand the waiver of my Constitution and Statutory rights as indicated above, and knowingly, intelligently and voluntarily waive all above rights as a condition to be considered for participation in the Misdemeanor Diversion Program (MDP).

Defendant's Signature _____ Date _____

Counsel Signature _____ Date _____
(if applicable)

I state that the preceding statement was given voluntarily, knowingly, and intelligently, and is truthful to the best of my knowledge.

Signature _____ Date _____

Before me, a Notary Public in and for said Wayne County, State of Ohio, personally appeared _____, who is either known to me or who furnished suitable identification, and who did acknowledge that he or she did sign the foregoing instrument and that the same is their free act and deed

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio, this _____ day of _____, 20____.

Notary Public