Steele County Pre-Trial Diversion Program

Effective August 1, 2026

INTRODUCTION

The decision to divert cases from the criminal justice system is the responsibility of the prosecutor. The prosecutor, within the exercise of their discretion, will determine whether diverting an offender to a treatment alternative best serves the interests of justice.

Accordingly, effective DATE, 2025, it is the policy of the Steele County Attorney and Steele County Community Corrections to establish and operate a fair and just diversion program that promotes equal access to participation in the Pre-Trial Diversion Program.

Purpose: Minnesota Statute §401.065, Subd. 2

The purposes of a diversion program include:

1. To provide eligible defendants with an alternative to confinement and a criminal conviction;
2. To reduce the costs and caseload burdens on district courts in the criminal justice system;
3. To minimize recidivism among diverted defendants;
4. To promote the collection or restitution to the victim of the defendant's crime; and
5. To develop responsible alternatives to the criminal justice system for eligible defendants.

The prosecutor makes the decision to introduce an offender into alternative treatment and is ultimately responsible for determining the success of that alternative treatment. The authority of the prosecutor to institute diversion proceedings is an incident of the prosecutor's discretionary authority in screening and charging.

For a diversion program to be helpful to both the defendant and the prosecution, certain safeguards must be in place for each party. To adequately protect the defendant's rights, prosecutors may consider the following safeguards in addition to those specified below.

a) The right of the defendant, at any point, to insist on traditional prosecution.
b) Judicial review to determine whether any pressure put on the defendant to accept a non-criminal disposition constituted an overwhelming inducement to surrender any trial right.
c) The presence and assistance of counsel.

To protect the interested public, the following safeguards may be considered:

a) The right to the prosecutor at any point before execution of a Diversion Agreement to insist upon criminal prosecution.
b) Waiver of speedy trial rights.
c) The inclusion in the diversion agreement of admissions by the defendant, stipulation of facts or depositions of witnesses, and, in applicable cases, an agreement by the defendant to cooperate with law enforcement.
d) Waiver of applicable statutes of limitations.

The prosecutor's right to terminate an offender's participation in the diversion program is essential. Only by retaining this option can the prosecutor ensure continued protection of the community's rights.

The final determination of a defendant's eligibility for the Diversion Program is within the sole discretion of the Office of the County Attorney and may be based on additional factors not explicitly included within these guidelines.

Factors to consider

Some of the factors that may be considered in the decision for diversion include:

a) The nature and severity of the offense;
b) Any special characteristics or difficulties of the defendants;
c) Whether the defendant is a first-time offender;
d) Whether there is a probability that the defendant will cooperate with and benefit from the diversion program;
e) Whether an available program is appropriate to the needs of the offender;
f) The impact of diversion upon the community;
g) Recommendations of the involved law enforcement agency;
h) Whether the defendant is likely to recidivate;
i) Consideration for the opinion of the victim;
j) Provisions for restitution; and
k) Any mitigating circumstances.

Program components: Minnesota Statute §401.065, Subd. 3

The diversion program may:

a) Provide screening services to help identify likely candidates for pretrial diversion;
b) Establish goals for diverted defendants and monitor performance of these goals;
c) Require individual, group, and/or family counseling services;
d) Oversee the payment of victim restitution by diverted defendants;
e) Assist diverted defendants in identifying and contacting appropriate community resources;
f) Identify educational services to divert defendants to enable them to earn a high school diploma or GED; and
g) Provide accurate information on how diverted defendants perform in the program to the court, prosecutors, defense attorneys, and probation officers.

Participation in restorative justice programs, including Three Rivers Restorative Justice, will be considered for eligible participants and may be included as a condition.

Participation in the Pre-Trial Diversion Program is not a right of the defendant/ participant. Rather, it is an alternative to prosecution for those adults who acknowledge that the conduct giving rise to possible prosecution was a violation of the law, but who have also demonstrated the capacity to follow the program components in a timely way, are remorseful, and can make appropriate restitution to the victim and reparation to the community.

II. Eligibility for Participation

For a case to be considered for the diversion program:

1. All adult criminal offenses may be considered for diversion, including misdemeanor, gross-misdemeanor, and felony-level offenses, but primary eligibility will be weighted more heavily toward risk level, crime characteristics, and public safety considerations.

2. A criminal complaint or citation shall be fully executed and filed.

3. Booking shall have been completed.

4. The defendant, or the defendant's attorney, shall submit a Diversion Application to the assigned prosecutor and probation **within 30 days following the Rule 8 hearing or arraignment**. No diversion requests will be considered following a contested omnibus hearing.

5. All offenders will be considered for diversion **EXCEPT** the following:

   a. Defendants with prior felony conviction(s) in this state or another state.
   b. Defendants with prior gross misdemeanor conviction(s) in this state or another state, in which the MN Sentencing Guideline Commission deems a unit.
   c. Defendants who have extensive misdemeanor and/or traffic history demonstrating that success in the Diversion Program would be futile.
   d. Defendants aged 25 or younger who, as juveniles, have entered a plea of guilty or have been found guilty or delinquent by a court trial for felony or gross misdemeanor offenses under EJJ or Adult Certification.
   e. Defendants who have been previously diverted as adults or who have been placed on probation under Minnesota Statute 152.18.
   f. Defendants who refuse to admit guilt or pay costs of participation in the program.
   g. Defendants who refuse to cooperate in the prosecution of others, if applicable.
   h. Defendants who have failed to appear in a case involving the charge to be diverted for any scheduled hearing without good cause.
   i. Defendants who refuse to agree to pay full restitution to any/all victims who have incurred monetary loss and request restitution.
   j. Persons deemed "medium or high risk" according to a validated risk assessment tool.

6. The following offenses are not eligible for diversion:

   a. Any offenses statutorily excluded from diversion;
   b. Violent crime offenses, as defined in Minnesota Statute 609.1095, Subd. 1(d).
   c. Qualified domestic violence-related offenses, as defined in Minnesota Statutes 609.02, subd. 16.
   d. Any offense where possession of a dangerous weapon is required while committing the charged offense.
   e. Offenses charged in a case in which one or more other charges are ineligible for diversion. (Example: Criminal damage to property not subject to diversion if a second-degree assault is charged as part of the same course of conduct)
   f. Offenses charged pursuant to Minnesota Chapter 169A;
   g. Introducing contraband into a correctional facility pursuant to Minnesota Statute 243.55;
   h. Predatory offender registration violations pursuant to Minnesota Statute

243.166;

i. Furnishing alcohol to persons under 21 resulting in death in violation of Minnesota Statute 340A.703, Subd. 1(4);
j. Crimes committed for the benefit of a gang pursuant to Minnesota Statute 609.229;
k. Sex Offenses as defined by 609.3457, Subd. 4 and offenses charged pursuant to Minnesota Statute 617.241-617.247;
l. Malicious Punishment violations pursuant to Minnesota Statute 609.377;
m. Crimes Against the Administration of Justice, including 609.48 to 609.515;
n. Weapons of mass destruction violations pursuant to Minnesota Statute 609.172;
o. Election and/or campaign crimes.

7. The prosecutor may vary these considerations in the interests of justice with the approval of the Steele County Attorney or Chief Deputy.

8. Restitution owed to a victim will be determined in the following priority:

   a. Amounts identified in restitution affidavits submitted and documented by victims showing reasonable restitution.
   b. Amounts determined by probable cause;
   c. Amounts admitted to by the defendant through testimony or police reports.

9. The prosecutor must agree to the request for diversion consideration. The prosecutor will not agree unless the Victim Witness Coordinator of the Steele County Attorney's Office has secured input from any identified individual victims to be considered by the prosecutor, or has made best efforts to contact the victims without success.

10. The defendant must agree to participate in the Steele County Adult Diversion Program and pay the fee associated with the program, which is a one-time fee payable to Steele County Community Corrections of $200. The fee must be paid before the complaint can be dismissed, pursuant to Rule 30.01 of the Minnesota Rules of Criminal Procedure.

11. Failure to pay restitution pursuant to the schedule determined by Community Corrections will result in termination from the diversion program.

12. After prosecutorial review, Steele County Community Corrections or designee will screen the case for diversion eligibility, including administration of a validated risk assessment tool. That department will then

notify the prosecutor, the Court, the defendant, and the defendant's attorney, if any, whether the defendant meets the program eligibility requirements and whether Community Corrections approves diversion for the defendant.

13. If the prosecutor and Community Corrections approve the defendant for diversion, the prosecutor and defense will execute and file a continuance for dismissal (CFD) for judicial approval. The terms of the CFD will include payment of any restitution, compliance with any recommendations from the diversion program, and execution of releases to SCCC for necessary information. As part of the CFD, the defendant acknowledges and waives their right to a speedy trial. As part of the diversion program, the defendant will be required to sign a Diversion Agreement with the Steele County Community Corrections, specifying the terms and conditions to be followed during the diversion period. Community Corrections will specify the diversion period, which will not exceed 2 years without the written approval of the County Attorney or designee.

14. The case will be dismissed by operation of law upon expiration of the CFD. If early dismissal is recommended before the CFD expires, Community Corrections will notify the prosecutor, and the prosecutor will file a 30.01 dismissal.

15. Upon successful completion of the diversion program and dismissal of the charge(s) against the defendant, the defendant shall not be entitled to a return of finger and thumb print data collected by law enforcement agencies, nor to photographs, distinctive physical mark identification data, or other identification data collected by law enforcement agencies, nor shall the defendant be entitled to the return of any arrest or offense reports and duplicates thereon in the possession of law enforcement or prosecutors.

16. Termination from Diversion Program.

    a) A defendant may be terminated from the diversion program for the following reasons:
        i. Providing materially false or misleading information to the Court or Community Corrections during the screening process or entrance into the diversion program;
        ii. Failing to complete any condition of the Diversion Agreement;
        iii. Failing to pay timely restitution pursuant to the restitution plan; OR
        iv. Committing a new felony, gross misdemeanor, or misdemeanor offense during the diversion period.

III. Community Corrections will notify the prosecutor if the defendant has misrepresented material facts affecting the agreement or committed a material violation of the CFD agreement. Following Minn. R. Crim. Pro. 27.05, subd. 4, the prosecutor will file a motion to resume prosecution and the defendant will be returned to Court to resume criminal proceedings. The matter will return to a first appearance hearing.

IV. Diversion Coordination

Steele County Community Corrections will:

1. Gather information on the status of the diverted person.
2. Administer appropriate validated risk assessments to determine eligibility.
3. Set the terms and conditions of diversion, including the findings of the prosecutor and the recommendations of all evaluators.
4. If the recommended programs cannot be satisfactorily addressed within the time set by the prosecutor or if the individual program is not proceeding in a satisfactory manner for any reason, the matter shall be referred to the prosecutor for re-evaluation.
5. Report on the progress of each individual program, if requested by the prosecutor in writing.
6. Notify the appropriate parties when the program has been satisfactorily completed.
7. Notify the prosecutor of the termination of the defendant and the grounds for the termination.

V. Application Process

The application process is as follows:

1. The Defendant shall submit a Diversion Application, or Defendant's counsel, within 30 days of the Rule 8 hearing.

2. The prosecutor will review the application and, if eligible, will refer the applicant to Community Corrections for a final determination of eligibility and conditions of diversion if accepted into the diversion program.

3. Community Corrections will notify the parties of acceptance or rejection into the diversion program by electronic service or email.

4. If a Defendant is accepted into the diversion program, the parties will file a continuance for the dismissal agreement. Upon judicial approval of the continuance for dismissal, all future hearings will be canceled.

5. If the prosecutor or Community Corrections rejects an application, the next court date will remain as scheduled, and prosecution will resume.

I acknowledge receipt of the Steele County Attorney Pre-Trial Diversion Program document and fully understand its contents. I have had a complete opportunity to review the Steele County Pre-Trial Diversion Program with my attorney.

Dated: ____________________ ______________________________
Defendant

I am the attorney for the defendant in the above-entitled criminal action; I personally explained the contents of the above document to the defendant.

Dated: __________________ _________________________________
Attorney for Defendant

OR

I acknowledge receipt of the Steele County Attorney Pre-Trial Diversion Program document and fully understand its contents. I have had a complete opportunity to review the Steele County Attorney Pre-Trial Diversion Program. I have knowingly and voluntarily waived my right to be represented by legal counsel in this matter.

I understand that I have an absolute right to have an attorney represent me in these proceedings. I understand that if I am eligible for the services of a public defender, the Court will appoint the Office of the Public Defender to represent me.

Dated: ____________________ _________________________________
Defendant