

Superseded 5/5/2021

77-2-5 Diversion agreement -- Negotiation -- Contents.

- (1) At any time after the filing of an information or indictment and prior to conviction, the prosecuting attorney may, by written agreement with the defendant, filed with the court, and upon approval of the court, divert a defendant to a non-criminal diversion program.
- (2) A defendant shall be represented by counsel during negotiations for diversion and at the time of execution of any diversion agreement unless he shall have knowingly and intelligently waived his right to counsel.
- (3) The defendant has the right to be represented by counsel at any court hearing relating to a diversion program.
- (4) Any diversion agreement entered into between the prosecution and the defense and approved by a magistrate shall contain a full, detailed statement of the requirements agreed to by the defendant and the reasons for diversion. A decision by a prosecuting attorney not to divert a defendant is not subject to judicial review.
- (5) Diversion programs longer than two years shall not be permitted.
- (6) A diversion agreement shall not be approved unless the defendant, before a magistrate and in the agreement, knowingly and intelligently waives his constitutional right to a speedy trial.