



ATLANTIC COUNTY PROSECUTOR'S OFFICE

MENTAL HEALTH DIVERSION PILOT PROGRAM



*The Atlantic County Prosecutor's Office has established a Mental Health Diversion Pilot Program for individuals with serious and persistent mental illness where there is a causal link between the defendant's criminal conduct and their diagnosis. The goal is to identify appropriate individuals with certain indictable charges who agree to comply with supervised treatment in exchange for delayed conviction, contingent upon compliance and monthly court appearances, with cooperative defendants' sentences to be downgraded or charges to be dismissed without prejudice. **This is a prosecutor's voluntary program and all determinations to review and enroll are solely in the discretion of this agency.***

ADMISSION CRITERIA

- Defendant must be legally appropriate, clinically appropriate, and case management appropriate for services. There must be a nexus between the diagnosis and the commission of the act in question.
- Atlantic County residents will be evaluated for eligibility. Out of county residents will be considered on a case-by-case basis and may be excluded based upon availability of resources.
- The charges must originate in Atlantic County.
- Eligible charges are limited to second-degree burglary, second-degree robbery, second-degree eluding, and all third- and fourth-degree crimes with the exception of:
 - Domestic violence offenses
 - Crimes against children
 - Sexually based offenses
- All eligible cases will abide a case-by-case analysis taking into consideration:
 - Nature of the violence engaged in;
 - Victim input;
 - Extent and nature of previous criminal record;
 - Amenability to supervision.
- A prior criminal history, prior conditional discharge, or prior entry into PTI will not preclude a defendant from entry into the MHDP but will be a factor in determining eligibility and amenability.
- Defendant must provide documentation of a diagnosed serious and persistent mental illness (SPMI) or an intellectual or developmental disability (ID/DD), or a screening indication that defendant has an undiagnosed SPMI/ID/DD. Qualifying mental illness/intellectual disabilities include, but are not limited to:
 - Bipolar Disorder, Schizophrenia, Schizoaffective Disorder
 - Autism, Cognitive Disorders (i.e., Alzheimer's or other forms of dementia), and other DD may be considered.
 - Post-traumatic stress disorder (PTSD) may be considered under certain circumstances.
- Defendants with generalized disorders and no demonstrable nexus to criminal acts are not eligible
- Defendant must be willing to accept case management services, treatment, and prescription medication (if indicated) and waive privacy rights under HIPAA to this agency, court staff, and the service provider.



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EXCLUSIONARY CRITERIA

- Criminal conduct not related to mental illness or intellectual or developmental disability
- Substance use is primary motivator/diagnosis and defendant is eligible for Recovery Court
- Defendant is more appropriately served in the Veteran's Diversion Program
- Violent nature of offense or violent criminal history except where a determination is made by the agency that the defendant is otherwise an appropriate fit for the Program and would benefit from services.
- Defendant on probation and does not have a new, pending Superior Court charge
- Megan's Law or Parole/Community Supervision for Life status
- Cases where admission will impact a co-defendant's case

ACCEPTANCE

- A determination will be made by the Atlantic County Prosecutor's Office as to whether defendant will be recommended for:
 - Admission into the Mental Health Diversion Program without a guilty plea
 - Admission into the Mental Health Diversion Program with a Plea and alternative sentence to be instituted in the event of removal
 - Guilty plea and sentence to probation
- Determinations on the manner in which charges will be resolved will be made on a on a case-by-case basis.
- If defendant is in jail, specific conditions of release will be set, and defendant will be advised of release conditions on the record by the court and given a written copy of the conditions.
- The social service provider and/or Probation or Diversion Officer shall provide monthly progress reports, and anytime requested, including input from treatment providers to the court, prosecutor and defense counsel which will form the basis for acceptance and/or continued enrollment in the Program and ultimate disposition of the charges either by way of reduction of custodial sentence recommendation or amendment of custodial sentence recommendation to non-custodial probation sentence recommendation.
- **For Mental Health Diversion Program without a guilty plea cases:** Once the case is approved for entry into the Program, the defendant will be required to agree to an Order of Postponement which will detail specific conditions related to the defendant's treatment plan, and the Court will hold the case in abeyance. The Court will review this order and its conditions on the record with the defendant to ensure that the defendant understands the requirements. While in the Program, the defendant will continue to be represented by defense counsel, and both counsel and the defendant are required to appear before the Court for scheduled reviews depending on the treatment plan. A Diversionary Team consisting of New Jersey Superior Court, Atlantic Vicinage Criminal Division, Pre-Trial Services Unit, Probation Division, Atlantic County Prosecutor's Office, Atlantic County Public Defender's Office, System Navigator (SN; i.e., the social service provider taking the case management lead), and treatment providers hold monthly staffing meetings to discuss the defendant's case status, compliance, and progress. If the defendant complies with the conditions set in the Order of Postponement, the case will be dismissed. If the defendant does not comply with the terms of the Order, the case will be returned to the regular calendar for traditional prosecution.



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- **For Mental Health Diversion Program with a guilty plea cases:** Defendant will enter into a plea recommendation with an alternate sentence to be instituted in the event of removal/termination from the program. The defendant will also be required to agree to an Order of Postponement which will detail specific conditions related to the defendant's treatment plan, and the Court will hold the case in abeyance. The Court will review this order and its conditions on the record with the defendant to ensure that the defendant understands the requirements. While in the program, the defendant will continue to be represented by defense counsel, and both counsel and the defendant are required to appear before the Court for scheduled reviews depending on the treatment plan. A Diversionary Team consisting of New Jersey Superior Court, Atlantic Vicinage Criminal Division, Pre-Trial Services Unit, Probation Division, Atlantic County Prosecutor's Office, Atlantic County Public Defender's Office, System Navigator (SN), and treatment providers hold monthly staffing meetings to discuss the defendant's case status, compliance, and progress. If the defendant complies with the conditions set in the Order of Postponement, the guilty plea will be vacated, and the case will be dismissed. If the defendant does not comply with the terms of the Order, the defendant will be sentenced to the terms contained in the plea agreement.
- **For the guilty plea and sentence to probation cases:** Defendant will enter into a plea recommendation in the prosecutor's discretion, be placed on Probation, and be supervised by the Mental Health Probation Officer, or through regular Probation with case management by SN. Specific conditions related to the defendant's treatment plan will be incorporated into defendant's conditions of probation. If the defendant does not comply with the terms of probation, they may be subject to a violation of probation (VOP) and appropriate consequences. The defendant may be subject to any alternative sentence to which the defendant has agreed.

ROLE OF PROBATION

Responsibility of Probation Mental Health Diversion Officer/Senior Probation Officer

- Balances the goals of enforcing the court order, protecting the public and supporting client recovery.
- Supervises and enforces the court order that places the participant into the Mental Health Diversion Program to encourage adherence to conditions and positive results.
- Responsible for overall client case management, case planning and supervision and brings relevant client information to the attention of the Diversionary Team.
- Acts as the liaison between the Superior Court, Law Division; Municipal Court; the Prosecutor's Office; and the Probation Division.
- Supervises individuals based on risk level and individual needs identified by Probation's Risk-Needs-Assessment (RNA) tool. The needs identified in the RNA will be incorporated into the plan for success. All clients accepted onto the diversion caseload will be supervised as high risk until mental health symptoms stabilize. Upon stabilization, the client will be supervised at the risk level identified by the RNA. Diversion officers will not apply low contact standards to any client accepted into the Diversion Program.



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- Meets the needs of the participant as an individual based on competency in differences such as gender, culture, cognitive functioning, mental health issues, trauma histories and motivation to change.
- Identifies and develops strategies for addressing barriers at home, work or in the community that could impede a participant's success in the Program and achievement of a lifestyle of recovery.
- Coordinates services for clients and facilitates linkage to crisis intervention services, if needed.
- Participates in service coordination and collaboration across criminal justice and behavioral health systems as a member of the Diversionary Team and other multi-disciplinary teams as needed.
- Prepares/presents cases for Administrative Review.
- Administers court ordered drug screenings.
- Performs field work in accordance with probation supervision practices, which may include visits to home, school, and community agencies.
- Responsible for collaborating with system partners for pilot data collection beginning at the pretrial stage through Program entry and discharge.
- Collaborate with the Diversionary Team for recommendations for discharge or termination