

MARIPOSA COUNTY SUPERIOR COURT
STANDING ORDER #21-002
MISDEMEANOR DIVERSION PROGRAM

FILED
MARIPOSA SUPERIOR COURT

JAN 05 2021
Cynthia Gardner
COURT CLERK

Pursuant to Penal sections 1001.95-1001.97, effective 1/1/21, the Court hereby enacts a Misdemeanor Diversion Program as set forth in the attached Exhibit "A". This program is effective immediately and will remain in place until either modified or terminated by the Presiding Judge.

Dated: January 5, 2021

Michael A. Fagalde

Michael A. Fagalde, Presiding Judge
Mariposa County Superior Court

Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
MARIPOSA COUNTY SUPERIOR COURT

PEOPLE OF THE STATE OF CALIFORNIA,		CASE NO.:
Plaintiff,		MISDEMEANOR DIVERSION
		INFORMATION FORM AND
vs.		AGREEMENT
		(Penal Code §§1001.95-
		1001.97)
Defendant.		

To qualify for the Misdemeanor Diversion Program pursuant to Penal Code sections 1001.95-1001.97, you must enter a plea of not guilty to the charge(s), waive your right to a speedy trial, and consent to completing the diversion program assigned to you by the Court.

If the Court grants diversion, criminal proceedings will be suspended for the charges eligible for the diversion program. Any bail bond or bail deposit made by you or on your behalf will be ordered exonerated by the Court and you will be released on your own recognizance (OR). The period for which misdemeanor diversion is granted will be no less than 6 months and no more than 12 months. Your participation in the Misdemeanor Diversion Program pursuant to Penal Code sections 1001.95-1001.97 shall not be considered a conviction or admission of guilt for any purposes.

Upon your successful completion of the Misdemeanor Diversion Program the Court will dismiss the charge(s) subject to diversion and the arrest for those charges shall be deemed to have never occurred. You may indicate in response to any question about your prior criminal record that you were not arrested for this/these charge(s).

If the charge(s) is/are dismissed, any record filed with the Department of Justice must reflect this dismissal. The arrest upon which you were diverted will be deemed to have never occurred. The record of this arrest shall not, without your consent, be used to deny you any employment, benefit, license or certificate.

Regardless of your successful completion of the Misdemeanor Diversion Program, you must still disclose the arrest if you are asked about it in a questionnaire or application for a position as a peace officer. The Department of Justice may disclose the arrest in response to a peace officer application request.

If you perform unsatisfactorily in the Misdemeanor Diversion Program, the District Attorney's Office or the Court may bring a motion to terminate your diversion. You will be notified of such a motion at your last known address and the Court will hold a hearing to determine whether your diversion should be terminated. If your Misdemeanor Diversion Program is terminated, the Court will reinstate the charge(s) and schedule further criminal proceedings.

Divertible Misdemeanors (Check all that apply)

() Vehicle Code §12500(a) or Vehicle Code §14601.1(a) (First offense only.)

- To be eligible you must not have been in misdemeanor diversion within 3 years of the date of the current offense.
- Conditions:
 1. Obey all laws;
 2. Do not drive unless properly licensed and insured; and
 3. Provide written proof of a valid driver's license.
- The charge will be dismissed at a 6-month review hearing if all conditions have been met. If license not obtained as of 6-month review hearing, the case will be continued for a 12-month review hearing and will be dismissed at that time if all conditions have then been met.

() Penal Code §488 (Where the value of the property taken is \$250 or less.)

- Conditions:
 1. Obey all laws;
 2. Pay restitution to the victim(s) in full and provide written proof of payment to the Court; and
 3. Perform 40 hours of community service (to be monitored by the Mariposa County Probation Department).
- The charge will be dismissed at a 6-month review hearing if all conditions have been met. If restitution has not been paid or community service has not been completed as of the 6-month review hearing, the case will be continued for a 12-month review hearing and will be dismissed at that time if all conditions have been met. If restitution has not been paid as of the 12-month review hearing, the Court may order dismissal if all other conditions have been met and the Court finds the you have had no ability to pay restitution.

() Penal Code §415 and Penal Code §647(f)

- Conditions:
 1. Obey all laws; and
 2. Perform 40 hours of community service (to be monitored by the Mariposa County Probation Department).
- The charge(s) will be dismissed at a 6-month review hearing if all conditions have been met. If community service has not been completed as of the 6-month review hearing, the case will be continued for a 12-month review hearing and the charge(s) will be dismissed at that time if all conditions have been met.

() Penal Code §853.7 (Related to any of the above charges.)

- Conditions:
 1. Obey all laws; and
 2. Complete 40 hours in the Probation Works Program. (If you live outside of Mariposa County, you must complete 40 hours in a program approved by the Mariposa County Probation Department.)
- The case will be dismissed at a 6-month review hearing if all conditions have been met. If the Probation Works Program has not been completed as of the 6-month review hearing, the case will be continued for a 12-month review hearing and will be dismissed at that time if all conditions have been met.

DECLARATION

I declare that I have read the above or had it explained to me by my attorney, that I understand it, that I agree to participate in the Misdemeanor Diversion Program, and that I have been provided a copy of this document.

Dated: _____

Defendant's Signature

I declare that I have discussed this form with my client and that I have answered all questions that he/she may have about participation in the Misdemeanor Diversion Program.

Dated: _____

Attorney for Defendant