



# Deferred Prosecution Program

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A second chance for first time offenders

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The Deferred Prosecution Program (DPP) is a limited monitoring program designed to give the young person in trouble for the first time a chance to rehabilitate him or herself without the stigma of a criminal conviction.

## **Mission Statement**

Tim Curry, former Tarrant County District Attorney, stated the Mission when he began the Deferred Prosecution Program in the summer of 1973.

*"Briefly, the Deferred Prosecution Program is a limited supervision probation program designed to give the young person in trouble for the first time a chance to rehabilitate himself (or herself) without the stigma of a criminal conviction(s). After the probationary period is successfully completed, the pending charges are dismissed."*

Since that time, the Program has changed. Through the years, it became a supervision program for offenders after case dismissal, so that if the Program was not successfully completed, the case was refiled. Some changes were needed. As early as a 1975 Program review, an unintended consequence was noted. The requirement that participants have no prior criminal arrest record seemed to disproportionately disqualify some young people.

A team of prosecutors, investigators, staff and criminal defense attorneys reviewed the Program in 2015 to ensure that it continues to meet the goal of giving youthful offenders an opportunity for rehabilitation without acquiring a record of conviction as well as to address the program requirements, so it is available to all equally.

In June 2022, the parameters of DPP were changed again, allowing for an increase in age of program participants. The program eligibility range was increased from ages 17 to 24, to ages 17 to 26.

## **Program Parameters**

Deferred Prosecution Program, also known as DPP, is available for youthful offenders, age 17 to 26 at the time of the offense, who have not been previously convicted of a criminal offense, have not participated in a DPP or a court diversion program, and who are willing and able to rehabilitate themselves. Successful program participation requires a self-correcting mindset and behavior.

DPP consists of two separate tracks. Track A is the traditional DPP consisting of an application with strict screening controls, background investigation, an orientation interview, and an agreement to abide by the terms of the Program.

Track B focuses on offenders with marijuana and some substance abuse charges. It also consists of an application with strict screening controls, background investigation, an orientation interview, and an agreement to abide by the terms of the Program.

The monitoring period in either Track A or B, includes drug testing to ensure that the program remains drug free for all offenders. Negative drug test results are required to enter and to successfully complete the program.

Upon successful completion of the monitoring period in either Track A or B, the pending case will be dismissed, and applicant is eligible to apply for immediate expunction.

### **Application**

An offender must apply in person within 90 days of the filing of his or her case. If the completed application is not received within 90 days, the application will not be considered, no exceptions.

A completed application includes all of the following:

- DPP Questionnaire, with personal statement, fully completed by the applicant.
- Two (2) signed letters of recommendation. Each letter must state that it is written by an adult person who is not a relative or co-defendant, state that the writer has known the applicant for at least three (3) years, and state the nature of the pending criminal charge.
- High school diploma, college transcript, or GED certificate.
- Negative drug test, given at the Tarrant County Community Supervision and Corrections Department (CSCD). The drug test form and instructions will be provided when application is turned in.
- Non-refundable initial partial program fee of \$25.00.

## **Fee**

The Program fee for Track A is \$125; \$25 due with application; \$100 due on date of orientation.

The Program fee for Track B is \$225; \$25 due with application; \$200 due on date of orientation.

## **Orientation**

The applicant must attend an orientation before being accepted into DPP. The applicant must be accompanied by a parent or an adult accountability partner that is not a co-defendant. The remainder of the program fee must be paid in full at the conclusion of the orientation. The Waivers completed and signed by applicant and defense attorney must be presented at the beginning of the orientation. Defense attorneys are encouraged to attend orientation with their clients.

## **Length of Program**

The term of supervision is four (4) months for misdemeanor offenses and eight (8) months for felony offenses. If restitution is owed, the term of supervision can be extended to ten (10) months to allow full payment.

## **Expunction**

Upon successful completion of the Program, the offender is entitled to an immediate expunction under Art. 71.011 TEXAS GOVERNMENT CODE and Art. 55.01 CODE OF CRIMINAL PROCEDURE. The cost of the expunction is not included in the cost of the program. An attorney is required to file the proper paperwork for the expunction process and additional court costs are required. The expunction order is limited to permit the Tarrant County District Attorney's Office to retain a record of applicant's participation in Deferred Prosecution Program, including the date and offense filed, as a reference resource for determining whether an arrestee is eligible for the Deferred Prosecution Program. The TCDA shall maintain the record of participation and the copy of the waiver as confidential work product documents. The record of participation and the copy of the waiver will be maintained by the TCDA for five years from the date of disposition and will not be disclosed to the public or any other government agency unless required by law, including, but not limited to a court order or statute.

## **Implementation**

1. Applicant must be 17-26 at time of offense
2. Application must be received no later than 90 days from file date, no exceptions
3. Application fee of \$25.00(NON-REFUNDABLE) due upon submission with application
4. Orientation attendance is mandatory for all applicants.
5. Orientations will be conducted on Thursday afternoons on the 4<sup>th</sup> floor Media Room
6. Drug testing will be performed by CSCD (first come, first served)
  - a. Central 200 W Belknap St, (basement) MALES only 7:30 am – 5:00 pm
  - b. Central 300 W Belknap St, (4<sup>th</sup> floor) FEMALES only 8:00 am – 5:00 pm
  - c. 3210 Miller Ave (Miller Complex) MALES & FEMALES 7:00 am – 6:00 pm

\*Participants given 2 chances within 30 minutes to provide a sample, if no sample is given after 2 attempts it is referred to DPP as a stall violation\*

7. Report monthly for four (4) months for misdemeanor and eight (8) months for felonies, will extend (if needed for restitution) up to ten (10) months
8. Case dismissed upon successful completion of program

## **Disqualifications\***

### Applicant

1. Over 26 years old at the time of the offense
2. Previous juvenile adjudication
3. Member of mental health priority population
4. Positive drug screen with application
5. Previous conviction or supervision for Class B offenses and above
6. Previous participation in DPP (including juvenile) or any other diversion program

### Offense

1. Multiple offenses not occurring out of same criminal episode
2. Offense committed after first arrest or while on bond
3. Injuring or placing anyone in danger during course of offense
4. Gang related offense
5. All same criminal episode offenses must be eligible for DPP

\*\*No-billed cases do not disqualify DPP participation\*\*

\*Cases accepted into the program are subject to the District Attorney's Office discretion

**DPP Track A (non - drug related offenses) – eligible offenses**

1. Criminal trespass – (M)
2. Evading arrest, no vehicle, no injury – (M)
3. Failure to ID – (M)
4. False report to police officer – (M)
5. Forgery – (M)
6. Purchase or furnish alcohol to minor – (M)
7. Sell or make alcohol available to a minor – (M)
8. Failure to stop at accident or Failure to give notice fixed object – (M)
9. Silent or abusive calls – 911 – (M)
10. Possession, manufacture, distribution of instrument to commit retail theft – (M)
11. Theft and theft of service, where the value is less than \$30,000 – (M to SJF)
12. Burglary (vehicle, building, coin operated machine, excludes habitation) – (M to SJF)
13. Removal, destruction or concealment of writing – (M to SJF)
14. Criminal mischief, where the loss is less than \$30,000 – (M to SJF)
15. Tampering with government record – (M to SJF)
16. Graffiti – pecuniary loss less than \$30,000 – (M to SJF)
17. Trademark counterfeiting, less than \$30,000 – (M to SJF)
18. Labeling unauthorized recording – (M to SJF)
19. Unauthorized use of a vehicle – (SJF)
20. Fraudulent use or possession of identifying information, less than five items – (SJF)
21. Credit card and debit card abuse – (F)

**DPP Track B (drug related offenses) – eligible offenses**

1. Possession of marijuana under 2 ounces – (M)
2. Possession of marijuana 2-4 ounces – (M)
3. Possession of marijuana under 2 ounces, drug free zone – (M)
4. Possession of controlled substance (PG3), under 28 grams – (M)
5. Possession of controlled substance (PG2A), under 2 ounces – (M)
  - Limited to K2
6. Possession of controlled substance (PG2A), under 1 gram – (M)
  - Limited to K2
7. Possession of a dangerous drug – (M)
8. Possession of controlled substance (PG4), under 28G (M)
9. Possession of marijuana 2-4 ounces, drug free zone – (SJF)
10. Possession of controlled substance (PG1A), fewer than 20 abuse units – (SJF)
  - Limited Lysergic Acid Diethylamide (LSD)

11. Possession of controlled substance (PG1), under 1 gram – (SJF)
  - Excluding Heroin and Fentanyl
12. Possession of controlled substance (PG2), under 1 gram (SJF)
  - Limited to Methoxymethamphetamine (Ecstasy/MDMA), Psilocybin, Psilocin, Tetrahydrocannabinol (THC) in the form of edibles, vape pens, cigars, waxes, oils
13. Possession of controlled substance (PG2), 4 < 200 grams (F2)
  - Limited to Tetrahydrocannabinol (THC) in the form of edibles, vape pens, cigars, waxes, oils
14. Possession of controlled substance (PG2), under 1 gram – Drug Free Zone (F3)
  - Limited to Methoxymethamphetamine (Ecstasy/MDMA), Psilocybin, Psilocin, Tetrahydrocannabinol (THC) in the form of edibles, vape pens, cigars, waxes, oils
15. Possession of controlled substance (PG2), 1 gram < 4 grams (F3)
  - Limited to Methoxymethamphetamine (Ecstasy/MDMA), Psilocybin, Psilocin, Tetrahydrocannabinol (THC) in the form of edibles, vape pens, cigars, waxes, oils

**DPP -Track A**

Application completed within 90 days of case filing

Orientation – must bring parent or accountability partner

Orientation

Pay remainder of program fee

Present Waiver of Rights and Judicial Admissions signed by defendant and defense attorney

Receive conditions of Deferred Prosecution Program

Paperwork

Waiver of Rights and Judicial Admissions

Conditions of Deferred Prosecution

Conditions

Monthly reports

Follow monitoring terms

Urinalysis and hair tests, results **must** be negative; final hair test 15 days before end of term

Sanctions

First positive drug screen – termination from program

Unsuccessful completion = trial court notified to set case

Successful completion - follow every condition of Deferred Prosecution Program

Successful completion = case dismissed and eligible for immediate expunction

**DPP – Track B**

Application completed within 90 days of case filing

Orientation – must bring parent or accountability partner

Orientation

Pay remainder of program fee

Present Waiver of Rights and Judicial Admissions signed by defendant and defense attorney

Receive conditions of Deferred Prosecution Program

Paperwork

Waiver of Rights and Judicial Admissions

Conditions of Deferred Prosecution

Conditions:

Monthly reports

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