

Olmsted County Attorney's Office
Juvenile Diversion Program for Juvenile Petty Offenders
Adopted effective April 15, 2007

Minnesota Statute § 388.24 requires every county attorney in Minnesota to establish a pretrial diversion program. Pursuant to this statute, the Olmsted County Attorney's Office reviews all juvenile petty offense¹ citations written within Olmsted County, or referred to us from another jurisdiction when the juvenile offender is an Olmsted County resident, to determine if the case is eligible for the Juvenile Diversion Program. The purpose of the Juvenile Diversion Program is:

- (1) to provide eligible offenders with an alternative to adjudication that emphasizes restorative justice;
- (2) to reduce the costs and caseload burdens on juvenile courts and the juvenile justice system;
- (3) to minimize recidivism among diverted offenders;
- (4) to promote the collection of restitution to the victim of the offender's crime;
- (5) to develop responsible alternatives to the juvenile justice system for eligible offenders; and
- (6) to develop collaborative use of demonstrated successful culturally specific programming, where appropriate.

Previously, all juvenile petty offense citations were eligible for our Juvenile Diversion Program. Effective for citations issued on or after April 15, 2007, the Olmsted County Attorney's Office has adopted some modifications to the previous eligibility criteria (presented in the form of a chart, below). The most significant changes in the revised criteria relate to citations for juvenile alcohol offenses (consumption of alcohol, possession of alcohol) and juvenile controlled substance offenses (possession of a small amount of marijuana, possession of drug paraphernalia).

Revisions related to juvenile alcohol offenses

Previously, the Olmsted County Attorney's Office referred juvenile alcohol offenses with a .15 BAC or lower to the diversion program. The revised criteria lowers that BAC level to .04 or less. Continuing to permit some juvenile alcohol offenders to participate in a diversion program recognizes that juvenile alcohol offenses are still what are traditionally considered "status offenses," an offense based solely on the individual's age when committing the offense (consumption or possession of alcohol is not illegal for individuals over the age of 21). The revised criteria related to juvenile alcohol offenses recognizes the significance of a BAC higher than .04, and the increased likelihood a juvenile

¹ A juvenile petty offense includes a juvenile alcohol offense, a juvenile controlled substance offense, a tobacco offense, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult (commonly referred to as a "status offense," such as a curfew violation), and any offense that would be a misdemeanor if committed by an adult, with the exception of the following misdemeanor-level offenses, which are always misdemeanor offenses even when committed by a juvenile: domestic abuse, criminal contempt, 5th degree assault, 5th degree domestic assault, prostitution, 5th degree arson, negligent fires/dangerous smoking, dangerous weapons, interference with privacy, harassment, violating a restraining order, obscene or harassing telephone calls, and indecent exposure.

consuming larger amounts of alcohol may have comparatively more serious chemical dependency issues.

The Olmsted County Attorney’s Office also adopts a “zero tolerance” policy for juvenile offenders under the influence of alcohol on school property. Therefore, the Olmsted County Attorney’s Office will now file all juvenile alcohol offense citations alleging the juvenile was under the influence of alcohol at or before school or a school function with the court.

Finally, a juvenile will only have one opportunity to participate in the Diversion Program for a juvenile alcohol offense. The Olmsted County Attorney’s Office will file any subsequent juvenile alcohol offenses with the court.

Revisions related to juvenile controlled substance offenses (possession of a small amount of marijuana, possession of drug paraphernalia)

Previously, the Olmsted County Attorney’s Office referred first and second time juvenile controlled substance offenses to the diversion program. Under the revised criteria, the Olmsted County Attorney’s Office will now file all of these citations with the court. Sending all juvenile controlled substance offenses through the juvenile court system recognizes that use or possession of marijuana and paraphernalia related to other controlled substances are serious offenses, frequently lead to other chemical use, and are always illegal regardless of the offender’s age.

Juvenile petty offenders eligible for the Juvenile Diversion Program will still meet with a Diversion Panel or individually with the Diversion Officer, depending on the nature of the offense (see below). Other than the offenses discussed above and curfew and tobacco citations, an individual will generally have two opportunities to participate in the Juvenile Diversion Program. If an individual continues to receive juvenile petty offense citations, the Olmsted County Attorney’s Office will file the citations with the court. If the individual was previously referred to the Juvenile Diversion Program and re-offends prior to participating in the program or prior to completing the required conditions, the Olmsted County Attorney’s Office will retrieve the previous citation(s) from the Juvenile Diversion Officer and file them with the court.

CASE TYPE	INDIVIDUAL/PANEL	OPPORTUNITIES AT DIVERSION
Curfew	Individual	Unlimited
Tobacco	Individual	Unlimited
Minor Consumption (BAC .04 or less, possession of alcohol)	Panel	One
Trespass	First offense = Individual Second offense= Panel	Two
Theft, Possession of Stolen Property	First offense = Individual Second offense= Panel	Two
Criminal Damage to Property	First offense = Individual Second offense= Panel	Two
DOC, Obstructing Legal Process, Fleeing on Foot	Panel	Two
Misc. (i.e. False Name, MV Tampering)	At discretion of Juvenile Diversion Officer	Two