EARLY INTERVENTION PROGRAM

PROGRAM GUIDE

MIDDLE JUDICIAL CIRCUIT
DISTRICT ATTORNEY'S OFFICE
TRIPP FITZNER, DISTRICT ATTORNEY

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SECTION 1: AUTHORITY AND PURPOSE

The Early Intervention Program ("EIP" or "Program") is authorized under O.C.G.A. § 15-18-80 (Pretrial Intervention and Diversion Programs). The statute authorizes the prosecuting attorney for each judicial circuit to create and administer a pretrial intervention and diversion program.

The purpose of the Program is to provide an alternative to prosecution for eligible offenders. The Program connects participants with treatment, education, employment, community service, and other rehabilitative services while ensuring restitution to victims and accountability to the Court.

Entry into the Program is at the discretion of the District Attorney based upon these written guidelines, as required by O.C.G.A. § 15-18-80(c)-(d). These guidelines address the nature of the offense, the prior arrest record of the offender, and the notification and response of the victim, as the statute requires.

SECTION 2: PROGRAM ELIGIBILITY

Every case is classified into one of three categories: Automatic Eligibility, Discretionary Review, or Excluded.

Category A: Automatic Eligibility

Cases meeting all Category A criteria are presumptively offered EIP. The assigned ADA does not need to seek additional approval. Dr. Bell and the ADA present the offer to the defendant. The defendant accepts or refuses.

Offense Criteria (all must be met):

- Possession of a controlled substance, less than one ounce, under O.C.G.A. § 16-13-30(a)
- No element of sale, distribution, trafficking, or possession with intent to distribute
- No co-defendant charged with a violent offense arising from the same incident
- No victim associated with the offense

Defendant Criteria (all must be met):

- No prior conviction for a violent felony as defined by O.C.G.A. § 17-10-6.1, or any felony involving physical injury to a person
- No prior conviction for a sex offense requiring registration under O.C.G.A. § 42-1-12
- No prior conviction for a crime against a child (including but not limited to child molestation, cruelty to children, enticing a child, sexual exploitation of children)
- No other pending felony arrests
- No prior participation in any pretrial diversion program in any jurisdiction
- Not currently under felony sentence (probation, parole, or incarceration)

If an ADA has a specific, articulable concern about a defendant who otherwise meets all Category A criteria, the ADA shall flag the case to the District Attorney, who may reclassify it to Category B.

Category B: Discretionary Review

These cases may be offered EIP but require individualized review. The ADA in the relevant county screens the case, completes the risk assessment (Form 1), and recommends approval or denial to the District Attorney or the District Attorney's designee.

Eligible offense types include but are not limited to:

- Property crimes (theft by taking, felony shoplifting, criminal damage to property, entering auto, financial transaction card fraud)
- Forgery and fraud offenses (forgery, identity fraud, deposit account fraud)
- Drug possession above one ounce but below trafficking weight, where there is no evidence of intent to distribute
- Felony obstruction of an officer (case-by-case)
- Family violence battery (felony), only with completed victim notification (Form 4) and safety assessment
- Other nonviolent felonies not listed under Category C

Defendant criteria are the same as Category A. Additionally:

- Risk assessment (Form 1) must be completed before acceptance by case manager
- Victim notification (Form 4) must be completed for any case involving a victim by victim advocate
- The ADA must document the basis for the recommendation
- Aggravated assault where a firearm is not used
- Aggravated assault with a waiver of prosecution and no bodily injury and no juveniles involved

Category C: Excluded

These cases are not eligible for EIP under any circumstances.

- Any offense carrying a mandatory minimum sentence of incarceration that cannot be suspended, probated, or deferred, per O.C.G.A. § 15-18-80(e)
- Murder, voluntary manslaughter, involuntary manslaughter
- Rape, aggravated sodomy, aggravated sexual battery, aggravated child molestation
- Child molestation, statutory rape (defendant 21+), enticing a child for indecent purposes
- Sexual exploitation of children
- Armed robbery, home invasion (1st or 2nd degree)
- Kidnapping, hijacking a motor vehicle (1st degree)
- Human trafficking (labor or sexual servitude)
- Any offense requiring sex offender registration
- Aggravated assault on a peace officer with firearm discharged
- Trafficking quantities of any controlled substance under O.C.G.A. § 16-13-31
- Possession with intent to distribute, sale, or distribution of controlled substances
- DUI (4th or subsequent offense, felony)
- Any case where the defendant has a prior serious violent felony conviction and the current charge is also a felony involving violence

SECTION 3: ENTRY PROCESS

Pre-Charge Entry (Bond Modification Track)

For Category A cases identified from arrest warrants before formal charging:

1. The District Attorney's Office reviews arrest reports on a regular basis in each county.
2. Cases meeting Category A criteria are flagged for EIP consideration.
3. The District Attorney files a motion for bond modification in the relevant Superior Court.
4. The defendant is summoned to appear for the bond modification hearing.
5. At the hearing, the ADA and Case Manager present the EIP offer to the defendant.
6. If the defendant accepts, a consent bond order is entered incorporating EIP conditions. The defendant begins the Program immediately.
7. If the defendant refuses, the case returns to the regular docket for formal charging and prosecution.

Post-Charge Entry

For cases already indicted or accused (Category A or B):

1. The ADA identifies eligible cases on the court docket.
2. For Category A cases, the ADA presents the offer directly. No additional approval is required.
3. For Category B cases, the ADA completes the screening, including the risk assessment (Form 1), and recommends approval or denial to the District Attorney or designee.
4. If approved, the defendant appears in court, completes the required forms (Forms 1 through 3, and Form 4 if there is a victim), and enters the Program.
5. If the defendant refuses or is denied, the case proceeds on the trial calendar.

SECTION 4: ONE-TIME PARTICIPATION

Participation in the Early Intervention Program is a one-time opportunity. A defendant who has previously completed, been terminated from, or voluntarily withdrawn from any pretrial diversion program in any jurisdiction in the State of Georgia is not eligible for the EIP. This restriction applies regardless of the offense type or the outcome of the prior participation.

SECTION 5: PROGRAM FEE POLICY

The Early Intervention Program does not charge any fee for participation. No application fee, supervision fee, program fee, or administrative fee shall be assessed against any participant at any time. This policy applies to all participants in all counties of the Middle Judicial Circuit.

Restitution owed to victims is not a "fee" and is addressed separately under Program Requirements.

SECTION 6: CASE MANAGER AUTHORITY

The Program Case Manager (currently Dr. Muriel Bell) has the authority to refuse any candidate referred to the Program. This authority exists regardless of whether the case falls under Category A or Category B.

The Case Manager's refusal may be based on the intake assessment, the candidate interview, professional judgment regarding the candidate's likelihood of success, or any other factor relevant to Program supervision and administration.

If the Case Manager refuses a candidate, the case returns to the regular docket. The Case Manager shall document the basis for the refusal and notify the assigned ADA.

The Case Manager reports to the District Attorney and is responsible for the day-to-day administration and supervision of all Program participants across all five counties of the Middle Judicial Circuit.

SECTION 7: PROGRAM REQUIREMENTS

A candidate's enrollment in the Program shall require satisfaction of conditions in the following areas, based upon the individualized case plan (Form 5):

Education

All candidates are required to have a high school diploma or GED to qualify for graduation from the Program. If a candidate does not have either, obtaining a GED will be a primary focus of the case plan.

Employment

During the term of the Program, gainfully employed candidates must keep their job or transition into a better job. Unemployed candidates must actively pursue employment throughout the 12-month term. Actively pursuing employment includes submitting job applications, attending job fairs, registering with the workforce investment office, and pursuing job training or vocational consultation.

Sobriety

Candidates will be randomly drug screened. If a candidate screens positive for drugs, the candidate must undergo a substance abuse evaluation and follow all treatment recommendations in order to remain in the Program. Substance use disorder is treated through the Program, not used as a basis for exclusion.

Mental Health

A wide range of counseling services is made available to candidates, where appropriate. These services are provided by both secular and faith-based providers. Should a candidate wish to counsel with an outside source, any licensed practitioner or facility will be accepted.

Community Service

Community service hours are determined individually based on the risk assessment and case plan. Candidates will only receive credit for community service hours that are reported on the activity log and witnessed. All community service must be performed for the benefit of a charitable enterprise within the Middle Judicial Circuit.

Restitution

Any candidate owing restitution must repay the victim in full before graduation will be approved. All restitution payments must be made by money order or certified check only. No cash payments will be accepted. Restitution is made payable to the victim but delivered to the District Attorney's Office for transmission to the victim.

SECTION 8: NOTIFICATION OF CANDIDATES

Once pre-approved, a candidate will receive notice to appear to complete the Program intake. The clerk of court should be asked to send the accused official notice to appear on a specified time and date, which should correspond with a calendared motion day.

SECTION 9: ACCEPTANCE AND ORIENTATION

Candidates report to the courthouse and, if accepted by the Case Manager, complete the following documents:

- Form 1: Pretrial Diversion Risk and Needs Assessment
- Form 2: Participant Rights and Informed Consent
- Form 3: Early Intervention Agreement
- Form 4: Victim Notification and Position (if applicable)
- Form 5: Individualized Case Plan

Candidates will also receive a brief orientation about the criminal justice process and the consequences of a felony conviction. Collaborative service providers may attend and contribute to the orientation.

SECTION 10: SUPERVISION OF CANDIDATE PERFORMANCE

Upon enrollment, candidates are assigned a supervision level based on their risk assessment score (Form 1):

- Level 1 (Low Risk, Score 0-5): Monthly in-person reporting with the Case Manager.
- Level 2 (Moderate Risk, Score 6-12): Bi-weekly in-person reporting, bi-weekly phone contact, monthly compliance verification.
- Level 3 (High Risk, Score 13-20): Weekly in-person reporting, weekly phone contact, regular compliance verification.

At each status review, the candidate will meet with the Case Manager to discuss performance and challenges. The candidate will submit a drug screen. Results and any program violations will be documented and brought to the Court's attention.

Candidates are responsible for documenting their own performance, including work, school, community service, and counseling attendance. Progress reports, pay stubs, community service timesheets, and proof of GED or other milestones must be submitted at each court appearance.

SECTION 11: TERMINATION OF CANDIDATES

Should a candidate fail to perform the terms of the Agreement, the candidate shall receive written notice of a STRIKE noted on the Early Intervention Agreement and signed off on by the candidate and the District Attorney's Office. Behavior that may result in a strike includes but is not limited to: failure to schedule or attend appointments as directed, failure to pay restitution as scheduled, failure to perform community service, a positive drug screen, and disrespectful behavior.

If a candidate receives THREE STRIKES, the candidate will be terminated from the Program.

A new arrest while in the Program does not result in automatic termination. The Case Manager and prosecutor must be notified. The prosecutor will review the circumstances and determine whether the candidate may continue with additional conditions, whether further review is needed, or whether termination is appropriate.

Once a decision to terminate has been made, the candidate shall receive formal written notice of the termination as well as a notice to appear in court for the next stage of prosecution of the felony charge.

SECTION 12: GRADUATION OF CANDIDATES

Once a candidate completes the Program, the candidate's criminal history will be reviewed to confirm no intervening arrests have occurred since enrollment. If no such arrests have occurred, the pending charge(s) are dismissed. The District Attorney's Office will provide the candidate written notice of completion, which may serve as proof of the diversion in the event of any challenge to the state of the criminal charge.

SECTION 13: CASE DISMISSAL

The dismissal, filed with the clerk of court, will state as follows:

> *"Other – Defendant's satisfaction of Early Intervention Agreement with the State. The terms of said agreement specifically provided for record restriction of the*

arrest record for said charge(s). Based on these facts, the State dismisses the above-referenced charge(s) and does not oppose restriction of this record pursuant to O.C.G.A. § 35-3-37."

SECTION 14: COLLABORATIVE ORGANIZATIONS

The District Attorney's Office collaborates with various entities to make educational and counseling services locally available to candidates. These entities include but are not limited to:

- Department of Community Supervision: Drug screens at each status review.
- Community Project Hope: Faith-based individual mentoring and life skills.
- Clouds of Hope Substance Abuse and FVIP Counseling (Counselor Clayton D'Andrade): Substance abuse, family violence, and anger management classes.
- Jefferson County SHIPS for Youth: Meeting space for counseling sessions and activities.

Additional collaborative organizations will be added as partnerships develop.

SECTION 15: CASELOAD MEASUREMENT

Any case enrolled in the Early Intervention Program shall be classified in Case Attributes in Tracker as Status "Special Program" and Program "Pre-Trial Diversion." The Status shall be listed as "Active." The candidate will be required to appear at any calendar call in addition to scheduled status reviews.

After enrollment, the secretary shall calendar all status review dates on the office court calendar and in Tracker, listing the appearances as "Early Intervention Status Review."

At each Status Review, the Case Manager shall make an entry in Tracker to note the findings of the review.

SECTION 16: DOCUMENTATION

The following documents constitute the EIP file for each participant:

1. Form 1: Pretrial Diversion Risk and Needs Assessment
2. Form 2: Participant Rights and Informed Consent
3. Form 3: Early Intervention Agreement
4. Form 4: Victim Notification and Position (if applicable)
5. Form 5: Individualized Case Plan
6. EIP Bond Order (if pre-charge entry)
7. Candidate Progress Notes
8. Dismissal Order

SECTION 17: FORM CHANGES REQUIRED

The following changes are needed to align existing forms with this revised Program Guide:

Form 2 (Rights and Consent)

- Add language to Part 4 (Program Conditions) explicitly stating: “There is no fee charged for participation in the Early Intervention Program.”

Form 3 (Early Intervention Agreement)

- Section H (Program/Probation Fees): Replace the current fee schedule section with: “No program fee is charged. The Early Intervention Program is provided at no cost to the participant.”
- Add to Part 2 (Program Description): “This is a one-time opportunity. A defendant who has previously participated in any pretrial diversion program in any jurisdiction is not eligible.”
- Add to Part 2: “The Case Manager has the authority to refuse any candidate based on the intake assessment, candidate interview, or professional judgment.”
- Section G (Restitution): Add: “All restitution payments must be made by money order or certified check only. Cash payments are not accepted.”

Form 5 (Case Plan)

- Restitution section: Add: “Payment method: Money order or certified check only. No cash accepted.”

Bond Order

- Change “without express permission from Dr. Bell” to “without express permission from the Court or the Case Manager.”
- Add program duration language tying the bond modification to the 12-month EIP term.