



**MARIJUANA DIVERSION  
PROGRAM  
HANDBOOK**

## **MISSION STATEMENT**

The Lehigh County District Attorney's Office recognizes that a conviction for a marijuana offense may have serious and lasting consequences for those charged and convicted with Possession of a Controlled Substance (Marijuana). The Office also recognizes the potential dangers presented by the abuse of marijuana. The Marijuana Diversion Program ("MDP") endeavors to address and balance these concerns.

The program has multiple goals:

- Mitigate the disproportionate negative consequences a conviction may have on an offenders' ability to obtain housing and employment, access higher education, and on the short and long-term financial security of those convicted of Possession of a Controlled Substance (Marijuana) while still providing for a fair measure of accountability.
- Reduce recidivism of offenders found in possession of user-quantity amounts of marijuana.
- Educate defendants regarding the issues surrounding substance abuse.
- Promote the judicious use of court and prosecutorial resources.
- Be responsive to the evolving concerns of the community while still fulfilling the legal obligation to enforce the law.

Successful completion of the MDP allows individuals to have their charges dismissed. The MDP holds offenders accountable for their criminal behavior through participation in the program, while avoiding the collateral consequences of exposure to increased penalties and costs associated with a criminal court case.

## **ELIGIBILITY**

- At least 18 years of age
- Charged with a violation(s) of Section(s) 780-113(a)(16), (a)(31) or (a)(32) of the Controlled Substance, Drug, Device, and Cosmetic Act related to Marijuana.
  - This must be the most serious charge.
  - Additional summary offenses will not automatically render an individual to be ineligible.
- Has not previously participated in the MDP on more than one prior occasion.
  - Individuals may be permitted to participate in the program two times.

## **DISQUALIFYING CRITERIA**

The following will automatically be excluded from participation:

- Individuals who are also presently charged with any felony offense.
- Individuals who are also presently charged with any misdemeanor offense OTHER than Possession of Marijuana or Paraphernalia related to marijuana use (Section(s) 780-113(a)(16),(a)(31) or (a)(32) of the Controlled Substance, Drug, Device, and Cosmetic Act related to Marijuana).
- Individuals who have previously been accepted to the MDP on two prior occasions.
  - An individual who previously completed the MDP II program and commits a subsequent marijuana offense will no longer be eligible for the diversionary program and will face traditional prosecution.
- Individuals who are currently on probation or parole, or are currently a participant in another diversionary program as a result of a criminal offense or conviction.
- Individuals with other pending criminal cases.
- Individuals who are currently incarcerated.

## PROCEDURE

1. Request a continuance of your preliminary hearing.
  - If an individual believes they are eligible to participate in the MDP, they should request a continuance from the Magisterial District Judge ("MDJ") so that they can submit an application to the District Attorney.
  - Upon request, the MDJ will reschedule the preliminary hearing in no less than 30 days.
2. Complete and Submit the MDP Application Packet, (Application, Preliminary Haring Waiver, Rule 600 Waiver and Program Agreement).
  - The individual must submit the completed Application and forms included the Packet to the District Attorney's Office via mail or email:
    - Lehigh County Courthouse, Room 307  
455 W. Hamilton St.  
Allentown, PA 18101
    - Email - [DAMDP@lehighcounty.org](mailto:DAMDP@lehighcounty.org)
  - Application Packets must be submitted to the District Attorney's Office within 21 days of the first scheduled preliminary hearing.
  - Link for Application Packet can be found at <https://www.lehighcounty.org/Departments/District-Attorney>
3. The District Attorney shall review the application along with the criminal complaint, criminal history, and any other relevant information.
4. The District Attorney will notify the MDJ, applicant, and affiant of its decision within 5 business days of receipt of the Application.
  - If the applicant is denied participation, the case will proceed as a traditional criminal case beginning with a preliminary hearing before the MDJ.
  - If the applicant is accepted into the MDP, the District Attorney shall notify the applicant and provide the MDJ with the completed application including the District Attorney's approval and identification as to which track the participant must complete.
5. Upon acceptance, the MDJ will continue the participant's preliminary hearing for the length of time designated depending on the MDP track.
  - 60 days for Track I
  - 120 days for Track II
6. Upon successful completion, the District Attorney will notify the MDJ, the affiant, and the participant and request that the case be dismissed pursuant to Pa.R.Crim.P. 546.
  - To be deemed "successful," the Participant must satisfy every condition set forth in the Participant Agreement.
  - If the Participant fails to satisfy any condition and the DA determines that the participant be disqualified from the MDP, the case will proceed as a traditional criminal case beginning with the waiver of a preliminary hearing and Rule 600 being filed and the case scheduled to formal arraignment in the court of common pleas.

## THE PROGRAM

### **MDP TRACK I – First Time Participants**

1. Participants must complete the 4 hour Drug and Alcohol Awareness course at <https://onlinecourseforcourt.com/pennsylvania/product/marijuana-thc-awareness-program/>
  - The cost for this course is \$25 and must be paid by the participant to the provider.
2. Upon completion, the participant must request a certificate verifying participation and completion of the course. This certificate must be provided to the MDJ and District Attorney.
3. The course must be completed and certificate presented to the MDJ and District Attorney prior to the next scheduled preliminary hearing.
  - No extensions of time will be granted.
  - Failure to complete the program in a timely manner will result in the offender facing traditional prosecution.
4. A participant must continue to attend any scheduled MDJ court events while participating in this program.
  - If a participant fails to attend a scheduled court event and a bench warrant is issued, the participant must pay all bench warrant fees before their case will be dismissed.
  - Failure to appear at a scheduled court event may result in dismissal from the MDP and the offender facing traditional prosecution.
5. The participant must remain crime free.
6. The participant must pay court costs as determined by the MDJ.
  - Proof of such payment must be provided to the District Attorney's Office.
  - Upon request, the MDJ may extend the period of time for the participant to pay ordered court costs for no more than 60 days.

Upon the successful completion of the program, including payment of court costs, the District Attorney's Office will consent to dismissal of the charges pursuant to Pennsylvania Rule of Criminal Procedure Rule 546 entitled Dismissal Upon Satisfaction of Agreement.

Once the charges are dismissed, the participant is entitled to have their record expunged by filing an expungement petition with the Lehigh County Court of Common Pleas Administration Office.

- Expungement Petition: <https://www.lccpa.org/forms/criminal/Expungement/Expungement-MotiontoExpunge-publicweb.pdf>
- Expungement Proof Of Service: <https://www.lccpa.org/forms/criminal/Expungement/Expungement-Certificateofservice-publicweb.pdf>

## **MDP TRACK II – Second Time Participants**

1. Participants must complete the 4 hour Decision Making Awareness course at <https://onlinecourseforcourt.com/pennsylvania/product/adult-decision-making-course/>
  - The cost for this course is \$25 and must be paid by the participant to the provider.
2. Upon completion, the participant must request a certificate verifying participation and completion of the course. This certificate must be provided to the MDJ and District Attorney.
3. The course must be completed and certificate presented to the MDJ and District Attorney prior to the next scheduled preliminary hearing.
  - No extensions of time will be granted.
  - Failure to complete the program in a timely manner will result in the offender facing traditional prosecution.
4. Participants must complete 4 hours of volunteer service with an organization approved by the District Attorney's Office.
  - Volunteer Service Application and Completion Forms are provided by the MDJ and District Attorney's Office upon request.
  - Once the proposed organization is approved by the District Attorney, the form will be returned to the participant.
  - Upon completion of the volunteer hours, the form must be returned by the organization to the District Attorney.
5. A participant must continue to attend any scheduled MDJ court events while participating in this program.
  - If a participant fails to attend a scheduled court event and a bench warrant is issued, the participant must pay all bench warrant fees before their case will be dismissed.
  - Failure to appear at a scheduled court event may result in dismissal from the MDP and the offender facing traditional prosecution.
6. The participant must remain crime free.
7. The participant must pay court costs as determined by the MDJ.
  - Proof of such payment must be provided to the District Attorney's Office.
  - Upon request, the MDJ may extend the period of time for the participant to pay ordered court costs for no more than 60 days.

Upon the successful completion of the program, including payment of court costs, the District Attorney's Office will consent to dismissal of the charges pursuant to Pennsylvania Rule of Criminal Procedure Rule 546 entitled Dismissal Upon Satisfaction of Agreement.