

To be ELIGIBLE for The City of Birmingham's DWI Deferred Prosecution Program, Defendant must meet each of the following criteria:

- ❖ Defendant has not previously been arrested for, charged with, or convicted of a DWI in his/her lifetime, even one disposed of by Deferred Prosecution or Plea Agreement resulting in a reduction of charge.
- ❖ Defendant's blood alcohol content was less than .18 at the time of arrest.
- ❖ Defendant had no prior felony convictions at the time of his arrest in the instant case.
- ❖ Defendant had no convictions arising from alcohol or drug use in the three years immediately preceding the date of the arrest in the instant case.
- ❖ Defendant had no more than three incidents of traffic violations in the twelve months immediately preceding the date of arrest in the instant case.
- ❖ Defendant had no children under the age of 18 in the vehicle with him/her at the time of arrest for the instant offense.
- ❖ Defendant's current charge is not related to an accident involving another vehicle, personal injury or substantial property damage.
- ❖ Defendant had a valid Alabama driver's license at the time of his arrest in the instant case.
- ❖ Defendant does not have a Commercial Driver's License.

Even if the Defendant is eligible the Judge may refuse to accept the defendant into the Deferred Prosecution program. The following are examples of some (not all) of the factors that may result in the denial of Defendant's application.

- ❖ Defendant's lifetime traffic history, especially moving violations.
- ❖ Defendant's degree of intoxication or impairment at the time of the arrest.
- ❖ Defendant's refusal to submit a breath sample when asked to do so by the arresting officer.
- ❖ Defendant's failure to cooperate with the arresting officer.
- ❖ Defendant's vehicle occupied by 2 or more passengers in the vehicle at the time of the arrest.
- ❖ Defendant's poor driving at the time of arrest (defendant was unconscious/asleep behind the wheel, defendant crossed over into oncoming traffic, defendant stopped at green light, defendant turned or pulled out in front of oncoming traffic, etc).