



## CRIMINAL PRETRIAL DIVERSIONARY PROGRAMS

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### DIVERSIONARY PROGRAMS

Diversionary programs have different eligibility criteria and program requirements.

Courts have discretion whether to allow an eligible person to participate in a program.

If a court grants participation, it suspends the defendant's prosecution and orders the person to participate in treatment or other types of programs.

If a person successfully completes a program, the court dismisses the charges.

A person who does not complete a program returns to court to face the original charges.

### ISSUE

Summarize the criminal pretrial diversionary programs in Connecticut.

### SUMMARY

We identified eight pretrial diversionary programs in Connecticut. Each has different eligibility criteria and program objectives. Generally, the law allows a court to determine whether a defendant who meets the criteria for a program may enter the program while suspending his or her prosecution. Program participants waive their right to a speedy trial and agree to a tolling of the statute of limitations. Generally, the court places program participants under the supervision of the Court Support Services Division (CSSD) for a period of time under conditions set by the court. In most cases, CSSD either operates a program or contracts with private providers to do so.

Some programs involve the Department of Mental

Health and Addiction Services (DMHAS) and other agencies.

Generally, if a defendant violates a condition of a program or does not successfully complete it, he or she is brought to trial on the original charges. Defendants who successfully complete a program have their charges dismissed and the records related to them erased.



We identified the following pretrial diversion programs (listed in the order they appear in the statutes):

1. suspended prosecution for drug or alcohol dependence treatment;
2. suspended prosecution for illegal sale, delivery, or transfer of pistols, revolvers, long guns, armor piercing or incendiary .50 caliber ammunition, or large capacity magazines;
3. pretrial family violence education program;
4. accelerated rehabilitation;
5. pretrial alcohol education program;
6. pretrial drug education and community service program;
7. pretrial school violence prevention program; and
8. pretrial supervised diversionary program for people with psychiatric disabilities and certain veterans.

We limit this report to pretrial diversionary programs that allow the courts to dismiss charges against defendants. We do not include community courts, which exist in Hartford and Waterbury. These courts can impose community service requirements on defendants in misdemeanor or municipal ordinance violation cases either (1) as a pretrial diversion that allows a first time participant to have charges dismissed or (2) in place of a prison sentence for a first time or subsequent program user who pleads guilty ([CGS § 51-181c](#)). Also, we do not discuss other programs that may allow a person convicted of a crime to receive counseling, treatment, or community service instead of serving time in prison (such as the domestic violence docket, drug intervention program, or community service labor program).

## **DIVERSIONARY PROGRAMS**

In Table 1, we briefly describe each of the pretrial diversionary programs in Connecticut, explain their eligibility criteria and the number of times someone may use each program, and list any fees that apply. We list the programs in the order they appear in the statutes.

While many of these statutes require participants to pay various fees, some specifically authorize the court to waive them for indigents. Even if a statute does not specifically authorize waiving fees for indigents, courts likely have authority to do so.

Table 1: Description of Pretrial Diversionary Programs in Connecticut

Description	Eligibility	Program Uses Allowed	Fees
<b>Suspended Prosecution for Drug or Alcohol Dependence Treatment (CGS § 17a-696 et seq.)</b>			
Up to two years under CSSD supervision in treatment and programs.	<p>The defendant must have been alcohol- or drug-dependent at the time of committing a crime and currently need and be likely to benefit from treatment. The court must also find that suspending prosecution advances the interests of justice.</p> <p><i>Current Charges.</i> A person is ineligible if charged with driving under the influence (DUI); 2<sup>nd</sup> degree assault with a motor vehicle (which involves DUI); or a class A, B, or C felony. But the court may waive these provisions.</p>	Twice (including participating in any predecessor programs) but the court may waive this restriction	Administration: \$25  Must pay treatment costs
<b>Suspended Prosecution for Illegal Sale, Delivery, or Transfer of Firearms (CGS § 29-33(h)), Long Guns (CGS § 29-37a(i)), Armor Piercing or Incendiary .50 Caliber Ammunition (CGS § 53-202l(e)), or Large Capacity Magazines (CGS § 53-202w(g))</b>			
Up to two years under CSSD supervision.	The defendant must be charged with a violation relating to the illegal sale, delivery, or transfer of one of the items listed above and the court must find that the (1) violation is not of a serious nature and (2) offender will probably not offend in the future and has no prior convictions for the type of crime he or she is charged with.	Once each (the statutes separate the programs for crimes related to each item, and a person may use the program for a crime related to each item once)	None
<b>Pretrial Family Violence Education Program (CGS § 46b-38c(h))</b>			
<p>Up to two years under a family violence intervention unit's supervision.</p> <p>Program must at least inform participants of basic elements of family violence law and applicable penalties.</p>	<p>The defendant must meet the following criteria based on current charges and prior convictions.</p> <p><i>Current Charges.</i> A person is eligible if charged with a family violence crime (a crime that includes an element of family violence to a family or household member) unless it is a:</p> <ol style="list-style-type: none"> <li>1. class A, B, or C felony or unclassified felony with a possible prison sentence of more than 10 years or</li> <li>2. a class D felony, unclassified felony with a possible prison term of more than five years, or an offense that involved inflicting serious physical injury, unless the person shows good cause.</li> </ol> <p><i>Prior Convictions.</i> A person is ineligible if convicted of a family violence crime on or after October 1, 1986.</p>	Once (either in this program or in accelerated rehabilitation for a family violence crime since October 1, 1986)	Application: \$100  Participation: \$300

Table 1 (continued)

Description	Eligibility	Program Uses Allowed	Fees
<b>Accelerated Rehabilitation (<a href="#">CGS § 54-56e</a>, as amended by <a href="#">PA 15-211</a>)</b>			
<p>Up to two years under CSSD supervision.</p>	<p>The defendant must be charged with a crime or motor vehicle violation that is not of a serious nature (see the exclusions based on current charges and prior convictions below) and the court must believe that the person will probably not reoffend.</p> <p><i>Current Charges.</i> The law prohibits people charged with the following crimes from participating:</p> <ol style="list-style-type: none"> <li>1. a class A felony;</li> <li>2. a class B felony (defendants charged with the class B felony of 1<sup>st</sup> degree larceny are eligible under certain circumstances);</li> <li>3. DUI;</li> <li>4. 2<sup>nd</sup> degree manslaughter with a motor vehicle (<a href="#">CGS § 53a-56b</a>);</li> <li>5. 2<sup>nd</sup> degree assault with a motor vehicle (<a href="#">CGS § 53a-60d</a>);</li> <li>6. 2<sup>nd</sup> degree sexual assault, with a limited exception (<a href="#">CGS § 53a-71</a>);</li> <li>7. 3<sup>rd</sup> degree sexual assault (<a href="#">CGS § 53a-72a</a>);</li> <li>8. 3<sup>rd</sup> degree sexual assault with a firearm (<a href="#">CGS § 53a-72b</a>);</li> <li>9. enticing a minor (<a href="#">CGS § 53a-90a</a>);</li> <li>10. 2<sup>nd</sup> or 3<sup>rd</sup> degree possessing child pornography (CGS §§ <a href="#">53a-196e</a> and <a href="#">-196f</a>);</li> <li>11. a crime or motor vehicle violation causing another's death;</li> <li>12. a family violence crime, if the person is eligible for the pretrial family violence education program or previously used that program;</li> <li>13. possessing drugs or drug paraphernalia, if the person is eligible for the pretrial drug education and community service program or previously used the program or its predecessor;</li> <li>14. a class C felony, unless the person can show good cause (but someone cannot participate if charged with 2<sup>nd</sup> degree larceny under certain circumstances);</li> <li>15. certain absentee ballot crimes (CGS §§ <a href="#">9-359</a> and <a href="#">-359a</a>);</li> <li>16. a motor vehicle violation while (a) operating a commercial vehicle or (b) holding a commercial driver's license or instruction permit; or</li> <li>17. 2<sup>nd</sup> degree assault involving intentionally causing serious physical injury by rendering the victim unconscious by striking the victim in the head without provocation (<a href="#">CGS § 53a-60(a)(6)</a>).</li> </ol>	<p>Veterans: twice</p> <p>Others: once, but a second time if (1) prior program usage was for a crime or motor vehicle violation punishable by up to one year in prison and (2) it is at least 10 years since the prior charges were dismissed under the program</p>	<p>Application: \$35</p> <p>Participation: \$100 or \$425 if ordered to take a hate crimes program</p>

Table 1 (continued)

Description	Eligibility	Program Uses Allowed	Fees
	<p><i>Prior Convictions.</i> A person must have no criminal record and must not have committed any of the following motor vehicle violations:</p> <ol style="list-style-type: none"> <li>1. fraud related to motor vehicle certificates of title (<a href="#">CGS § 14-196</a>),</li> <li>2. driving after a license suspension or revocation for DUI or DUI-related crimes (<a href="#">CGS § 14-215(c)</a>),</li> <li>3. negligent homicide with a motor vehicle (<a href="#">CGS § 14-222a</a>),</li> <li>4. evading responsibility in an accident involving death or serious physical injury (<a href="#">CGS § 14-224(a) or (b)(1)</a>), or</li> <li>5. DUI (<a href="#">CGS § 14-227a</a>).</li> </ol>		
<b>Pretrial Alcohol Education Program (<a href="#">CGS § 54-56g</a>, as amended by <a href="#">PA 15-211</a>)</b>			
<p>One-year program but defendant can request more time for good cause.</p> <p>10- or 15-session alcohol intervention program or a state-licensed substance abuse treatment program.</p> <p>Person can request reinstatement up to two times if the program provider finds that the person failed the program or is no longer amenable to treatment.</p>	<p>The defendant must meet the following criteria based on current charges and prior convictions.</p> <p><i>Current Charges.</i> A defendant is eligible if charged with:</p> <ol style="list-style-type: none"> <li>1. DUI, unless he or she was operating a commercial vehicle or held a commercial driver's license or instruction permit at the time of the offense (<a href="#">CGS §§ 14-227a or -227g</a>),</li> <li>2. violating safe boating rules (including drunken boating) (<a href="#">CGS § 15-133</a>), or</li> <li>3. 2<sup>nd</sup> degree reckless vessel operation while under the influence (<a href="#">CGS § 15-140n</a>).</li> </ol> <p>Someone charged with DUI, DUI while under age 21, or drunken boating who caused serious physical injury to another must show good cause in order to participate.</p> <p><i>Prior Convictions.</i> Someone is ineligible if he or she has a prior conviction of:</p> <ol style="list-style-type: none"> <li>1. DUI (<a href="#">CGS §§ 14-227a and -227g</a>),</li> <li>2. 2<sup>nd</sup> degree manslaughter with a motor vehicle (this crime involves DUI) (<a href="#">CGS § 53a-56b</a>),</li> <li>3. 2<sup>nd</sup> degree assault with a motor vehicle (this crime involves DUI) (<a href="#">CGS § 53a-60d</a>),</li> <li>4. 2<sup>nd</sup> degree manslaughter with a vessel (this crime involves DUI) (<a href="#">CGS § 15-132a</a>),</li> <li>5. the portion of safe boating dealing with drunken boating (<a href="#">CGS § 15-133(d)</a>),</li> </ol>	<p>Once within 10 years (if charged with a safe boating violation, this provision only applies if it involves drunken boating).</p>	<p>Application: \$100</p> <p>Evaluation: \$100</p> <p>Participation: \$350, \$500, or program costs depending on which portion of the program the person uses</p> <p>Reinstatement in program: \$175, \$250, or program costs depending on program ordered</p> <p>Victim impact panel: up to \$75 if ordered to attend</p>

Table 1 (continued)

<i>Description</i>	<i>Eligibility</i>	<i>Program Uses Allowed</i>	<i>Fees</i>
	6. 1 <sup>st</sup> or 2 <sup>nd</sup> degree reckless vessel operation while under the influence (CGS §§ <a href="#">15-140l</a> or <a href="#">-140n</a> ), or 7. a similar crime in another state (except DUI while under age 21 under <a href="#">CGS § 14-227g</a> ).		
<b>Pretrial Drug Education and Community Service Program (<a href="#">CGS 54-56i</a>, as amended by <a href="#">PA 15-211</a>)</b>			
<p>One-year program but defendant can request more time for good cause.</p> <p>1<sup>st</sup> or 2<sup>nd</sup> time participants enter a 15-session drug education program or substance abuse treatment program consisting of at least 15 sessions after a DMHAS evaluation.</p> <p>3<sup>rd</sup> time participants are referred to a state-licensed substance abuse program for evaluation and a course of treatment as ordered by the court based on the evaluation and determination.</p> <p>The court can refer a veteran to the state or federal Department of Veterans Affairs for evaluation and services instead.</p>	<p>The defendant must be charged with a drug paraphernalia or possession crime or possession of less than 0.5 ounce of marijuana (which is not a crime but punishable by only a fine) (CGS §§ <a href="#">21a-267</a>, <a href="#">-279</a>, and <a href="#">-279a</a>).</p>	<p>Twice (in this program or predecessor drug education or community service programs) but a third time for good cause</p>	<p>Application: \$100</p> <p>Evaluation: \$150</p> <p>Drug education program participation: \$600</p> <p>Substance abuse treatment program participation: \$100 and program costs</p> <p>Reinstatement: \$250 and costs of substance abuse treatment program if ordered to participate in one</p>

Table 1 (continued)

<b>Description</b>	<b>Eligibility</b>	<b>Program Uses Allowed</b>	<b>Fees</b>
<p>Must participate in CSSD's community service labor program for (1) five days for a 1<sup>st</sup> time participant, (2) 15 days for a 2<sup>nd</sup> time participant, and (3) 30 days for those participating for a 3<sup>rd</sup> or subsequent time.</p> <p>Person can request reinstatement up to two times if the program provider finds that the person failed the program or is no longer amenable to treatment.</p>			
<b>Pretrial School Violence Prevention Program (<a href="#">CGS § 54-56j</a>)</b>			
<p>One year program with at least eight group counseling sessions in anger management and nonviolent conflict resolution.</p>	<p>The defendant must (1) meet the criteria based on current charges and prior convictions listed below; (2) be a public or private secondary school student; and (3) state, along with his or her parents or guardian, that to the best of their knowledge and belief, they do not possess any firearms, dangerous weapons, drugs, or other property or materials, which are illegal for them to possess.</p> <p><i>Current Charges.</i> A person is eligible if charged with an offense involving the use or threatened use of physical violence on school property or at a school-sponsored activity.</p> <p><i>Prior Convictions.</i> A person must not have any prior convictions of offenses involving the threatened use of physical violence on school property or at a school-sponsored activity in this or another state.</p>	<p>Once</p>	<p>Parent or guardian pays participation costs</p>

Table 1 (continued)

<i>Description</i>	<i>Eligibility</i>	<i>Program Uses Allowed</i>	<i>Fees</i>
<b>Pretrial Supervised Diversionary Program for Persons with Psychiatric Disabilities and Veterans (<a href="#">CGS § 54-56l</a>, as amended by <a href="#">PA 15-211</a>)</b>			
<p>CSSD develops a tailored treatment plan and can collaborate with DMHAS and the state and federal veterans' affairs departments for appropriate placements</p> <p>Probation officers with reduced caseloads and specialized training in working with people with psychiatric disabilities supervise participants</p>	<p>The defendant must be charged with a crime or motor vehicle violation that is not of a serious nature (see the exclusions based on current charges below) and:</p> <ol style="list-style-type: none"> <li>1. have a psychiatric disability, defined as a mental or emotional condition (not solely substance abuse) that has substantial adverse effects on the defendant's ability to function and requires care and treatment or</li> <li>2. be a veteran with a mental health condition that is amenable to treatment, if he or she was not dishonorably discharged or released from the military.</li> </ol> <p><i>Current Charges.</i> A person is ineligible for this program if charged with a crime that would make him or her ineligible for accelerated rehabilitation (see above) with one exception: a person who would be ineligible for accelerated rehabilitation because he or she could participate in the pretrial family violence education program may participate in the supervised diversionary program if it is the more appropriate program for the person under the circumstances.</p>	<p>Twice</p>	<p>None</p>

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