

Accelerated Rehabilitation Programs

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October 23, 2023 | 2023-R-0181

Issue

Summarize (1) laws on the accelerated rehabilitation (AR) program in Connecticut and current or repealed AR-type programs in other states and (2) any study on the correlation between program completion and recidivism rates.

Summary

The AR program is one of Connecticut's pretrial diversionary programs which each have distinct eligibility criteria and requirements. In Connecticut, the law gives the court discretion whether to allow an eligible person to participate in the AR program. If the court grants participation, it suspends the defendant's prosecution and orders the person to participate in treatment or other types of programs. If the person successfully completes the program, the court dismisses the charges. However, a person who does not complete the program returns to court to face the original charges.

The AR program is generally limited to individuals with first-time or low-level offenses who have not participated in the program before. There is a program participation fee that may be waived if the defendant can demonstrate hardship. Connecticut's AR program is described in more detail below.

Most states have statutory programs that in some way resemble Connecticut's AR program, but they vary in many ways. Many of these programs grant discretion to prosecutors and some require prosecutor approval for a defendant to be placed in it. We found no state where the program was repealed. (Table 1 below describes the programs in some of the states.)

While these programs generally have reduced recidivism as a goal, we were unable to find any studies that evaluated whether there is a correlation between an offenders' program completion and recidivism (i.e., new offense conviction following program completion). However, in 2013 the U.S. Department of Justice published a [report](#) on the results of a national survey on criminal justice diversion programs and initiatives compiled by the Center for Health and Justice (CHJ) at TASC (Treatment Alternatives for Safe Communities). Some of CHJ's [observations](#) could explain the challenge in studying the effectiveness of these programs. For example, the report stated that, "with many diversion programs in existence across the country, there are no apparent overarching standards for collecting or publishing data for the purposes of evaluating different types of programs against common sets of performance measures such as cost savings or reduced recidivism" (see page 2). There currently still does not appear to be any national standards for collecting and publishing data that can be used to evaluate these programs.

Connecticut

To be eligible for Connecticut's AR program, 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 ([CGS § 54-56e](#)). Under the program, the person is subject to the Judicial Department's Court Support Services Division supervision for up to two years ([CGS § 54-56e\(d\)](#)). According to a 2020 Sentencing Commission [report](#), the state's AR program had a 93% success rate in diverting the referred defendant from criminal case processing and resulting in all charges being dismissed or nolle (not prosecuted) (see page 46).

The statute generally makes a defendant ineligible for the program if he or she is charged with certain crimes, has certain prior convictions, or has used the program before (with certain exceptions). These conditions are summarized below.

Current Charges Excluded

[CGS § 54-56e\(c\)](#) prohibits people charged with the following crimes from participating in the AR program:

1. a class A felony;
2. a class B felony (defendants charged with the class B felony of 1st degree larceny are eligible under certain circumstances);
3. driving under the influence (DUI) of drug or alcohol, including while operating a school bus or student transportation vehicle or a vehicle with a child passenger ([CGS §§ 14-227a, -227m & -227n](#));

4. 2nd degree manslaughter with a motor vehicle ([CGS § 53a-56b](#));
5. 2nd degree assault with a motor vehicle ([CGS § 53a-60d](#));
6. 2nd degree sexual assault, with a limited exception ([CGS § 53a-71](#));
7. 3rd degree sexual assault ([CGS § 53a-72a](#));
8. 3rd degree sexual assault with a firearm ([CGS § 53a-72b](#));
9. enticing a minor ([CGS § 53a-90a](#));
10. 2nd or 3rd degree possessing child pornography ([CGS §§ 53a-196e](#) & [-196f](#));
11. a crime or motor vehicle violation causing another's death;
12. a family violence crime, if the person is eligible for the pretrial family violence education program or previously used that program;
13. possessing drugs or drug paraphernalia or exceeding legal possession limit of cannabis, if the person is eligible for the pretrial drug education and community service program or the pretrial drug intervention and community service program or previously used either program or their predecessor;
14. a class C felony, unless the person can show good cause (but someone cannot participate if charged with 2nd degree larceny under certain circumstances);
15. certain absentee ballot crimes ([CGS §§ 9-359](#) & [-359a](#));
16. a motor vehicle violation while (a) operating a commercial vehicle or (b) holding a commercial driver's license or instruction permit;
17. 2nd degree assault involving intentionally causing serious physical injury by rendering the victim unconscious by striking the victim in the head without provocation ([CGS § 53a-60\(a\)\(6\)](#)); or
18. operating a vessel while under the influence of alcohol or drugs or 2nd degree manslaughter with a vessel or 2nd degree reckless operation of a vessel while under the influence ([CGS §§ 15-132a](#), [-133](#) & [-140n](#)).

Prior Convictions Excluded

To be eligible to participate in the program, the person must have no criminal record and must not have committed any of the following violations involving motor vehicles or vessels used for transportation on water (except a seaplane):

1. fraud related to motor vehicle certificates of title ([CGS § 14-196](#));

2. driving after a license suspension or revocation for DUI or DUI-related crimes ([CGS § 14-215\(c\)](#));
3. negligent homicide with a motor vehicle ([CGS § 14-222a](#));
4. evading responsibility in an accident involving death or serious physical injury ([CGS § 14-224\(a\) or \(b\)\(1\)](#));
5. DUI, including while operating a school bus or student transportation vehicle or a vehicle with a child passenger ([CGS §§ 14-227a, -227m & -227n](#)); or
6. operating a vessel while under the influence of alcohol or drugs or 2nd degree manslaughter with a vessel or 2nd degree reckless operation of a vessel while under the influence ([CGS §§ 15-132a, -133 & -140n](#)).

Program Participation Limit

Veterans are allowed to use the AR program twice. Others are limited to using the program once but may be allowed 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 ([CGS § 54-56e\(b\)](#)).

Fees

There is a \$35 program application fee ([CGS § 54-56e\(b\)](#)), and the program participant fee is generally \$100 ([CGS § 54-56e\(d\)](#)). However, if the person is ordered to take a hate crimes program, the participation fee is \$425 ([CGS § 54-56e\(e\)](#)).

By law, the court is required to waive any application or participation fee for anyone who has been determined indigent and eligible for representation by a public defender who has been appointed on the person's behalf. The law prohibits the court from requiring the person to perform community service in lieu of paying the fees the court waived ([CGS § 54-56e\(g\)](#)).

Other States' Pre-Trial Diversion Programs

Table 1 summarizes statutory programs in other states that resemble Connecticut's AR program, but may vary in certain ways (e.g., Florida requires victim consent, Georgia requires prosecuting attorneys to create the program and develop participation guidelines, and the Massachusetts program is limited to people ages 17 to 22).

Table 1: Other States' Pre-Trial Diversion Programs

State (Statute)	Brief Summary
Colorado (Colo. Rev. Stat. § 18-1.3-101)	A Colorado deferred prosecution program allows the court to act prior to trial or a guilty plea entry and, if it has the consent of the defendant and prosecutor, defer the prosecution for up to two years imposing probation with conditions. Satisfactory completion by the defendant and discharge from supervision results in dismissal of the charges. The only crime that automatically disqualifies a person from this program is involving an act of domestic violence.
Florida (Fla. Stat. Ann. § 948.08)	Florida's pretrial intervention program provides treatment, counseling, education, and supervision for anyone charged with a nonviolent felony of the third degree upon the approval of the program administrator and the consent of the victim, the prosecutor, and the judge. The statute specifically excludes certain violent crimes. Successful program completion results in dismissal of the charges.
Georgia (Ga. Code Ann. § 42-8-80)	Georgia statutes authorize prosecuting attorneys for each judicial circuit to establish a pretrial release and diversion program but must not accept an offender into the program with an offense for which the law provides a mandatory minimum sentence of incarceration or imprisonment that cannot be suspended, probated, or deferred. The law requires the prosecuting attorney implementing the program to create written guidelines for acceptance into, and administration of, the program. These guidelines must include consideration of the (1) nature of the crime, (2) offender's prior arrest record, and (3) victim notification and response.
Indiana (Ind. Crim. Pro. Rule 26)	The law allows a prosecuting attorney to withhold prosecution against anyone charged with a misdemeanor if they agree to the conditions of a pretrial diversion program offered by the prosecutor and sign an agreement to that effect which the prosecutor files in court. The agreement can contain conditions similar to those which can be imposed on individuals on probation. The prosecutor must notify the victim whenever a prosecution is withheld under this provision.
Kansas (Kan. Stat. Ann. § 22-2907)	After a complaint has been filed charging a defendant with commission of a crime but before conviction, a district attorney can propose a diversion agreement if he believes it would be in the interests of justice and to the benefit of the defendant and the community. The law specifies charges for which a district attorney is prohibited from entering such an agreement.
Massachusetts (Mass. Gen. Laws Ann. Ch. 276A, §§ 1-5)	Massachusetts has a very limited program in district court and Boston municipal court which applies to people aged 17 to 22 who are accused of crimes carrying a term of imprisonment and who have no prior convictions. Under this program an eligible person can be referred to a program of community supervision and services. The statute makes ineligible anyone charged with a controlled substance offense and any of a specific list of crimes against certain victims.
Minnesota (Minn. Stat. Ann. § 401.065)	Minnesota requires each county attorney whose county participates in the community corrections act to establish a pretrial diversion program for adult offenders. The program is open to anyone (1) with no prior convictions (in Minnesota or any other state) for a crime against a person; (2) who has never participated in a Minnesota pretrial diversion program; and (3) who is charged with a felony, gross misdemeanor, or misdemeanor with specified exceptions. Offenders who successfully complete the program have the charges against them dropped.

Table 1 (continued)

<p>State (Statute)</p>	<p>Brief Summary</p>
<p>Mississippi (Miss. Code Ann. § 99-15-101, et seq)</p>	<p>People are eligible for pretrial intervention if they have never been in the program before and if they are not charged with certain drug offenses or with any crime of violence such as murder, aggravated assault, rape, armed robbery, manslaughter, or burglary of a dwelling house.</p>
<p>Montana (Mont. Code Ann. § 46-16-130)</p>	<p>Prior to filing a charge, a prosecutor and defendant may agree on deferring a prosecution for a specified period while the defendant participates in a supervised rehabilitation program. Successful completion results in dismissal of the charges. The prosecutor may not agree to defer prosecution for a violation of specific driving while intoxicated-related offenses. The prosecutor must also consult with the victim in any felony or misdemeanor involving actual, threatened, or potential bodily injury and with the family of a child or homicide victim.</p>
<p>Nebraska (Neb. Rev. Stat. § 29-3602, et seq)</p>	<p>Nebraska statutes authorize any county attorney to establish a pretrial diversion program with the concurrence of the county board. Any such program must include formal written eligibility guidelines established after consultation with criminal justice officials.</p>
<p>New Jersey (N. J. Rev. Stat. § 2C:43-12)</p>	<p>New Jersey's statewide pretrial intervention program is primarily for first-time offenders who are amenable to correction, responsive to rehabilitation, and accused of appropriate offenses. They can be referred to a program of supervisory treatment by the judge with the consent of the prosecutor and the program director, but a person can only get supervisory treatment once. The law does not list specific offenses which make someone ineligible, but rather lists criteria to be used to determine eligibility.</p>
<p>New Mexico (N.M. Stat. Ann. § 31-16A-1, et seq)</p>	<p>New Mexico's Pre-Prosecution Diversion Act's purpose is to remove people from the criminal justice system who are most amenable to rehabilitation and least likely to commit future offenses. To be admitted to the program the defendant must be charged with a crime that is nonviolent in nature, have no prior felony convictions, and have not been admitted to a similar program during the previous 10 years. A district attorney can decide not to admit someone who is otherwise eligible to the program, and his decision is not appealable.</p>
<p>New York (N.Y. Crim. Proc. § 170.55)</p>	<p>In New York, an adjournment in contemplation of dismissal can be granted by the court, on a motion by either the people or the defendant, and it defers prosecution for six months or one year in a family violence matter. Successful completion of the conditions or term results in dismissal of the charges.</p>
<p>Ohio (Ohio Rev. Code Ann. § 2935.36)</p>	<p>In Ohio, prosecuting attorneys are authorized to establish pre-trial diversion programs for accused individuals the attorney believes are unlikely to offend again. The statute specifically excludes people accused of crimes of violence or of any of a specific list of offenses. The law allows the prosecutor to include someone accused of a crime from this list if he finds that the accused person did not cause, threaten, or intend serious physical harm to anyone. The programs must be operated pursuant to rules adopted by the judge or judges of the respective courts, and successful completion of the program results in dismissal of the charges.</p>
<p>Oregon (Or. Rev. Stat. § 135.886, et seq)</p>	<p>After a defendant has been charged with commission of a crime, if the district attorney considers it to the benefit of the defendant, the community, and justice, he or she can propose a diversion agreement whereby the defendant will enter a supervised performance program. The law specifically excludes certain charges from this option, and prosecutors must consider a list of factors in deciding whether to offer an agreement. The first factor is the nature of the offense, which must not have involved injury to another person.</p>

Table 1 (continued)

<p>State (Statute)</p>	<p>Brief Summary</p>
<p>Pennsylvania (234 Pa. Code Rule 310, et seq)</p>	<p>Pennsylvania’s AR disposition proceeding is by court rule rather than by statute. The program must be initiated by a motion by the attorney for the Commonwealth (prosecutor), who must inform the defendant and victim. The proceeding is before a judge who decides whether the person should be placed in the program; the decision is not appealable.</p>
<p>Rhode Island (R.I. Gen. Laws § 12-19-19)</p>	<p>Rhode Island statutes authorize the court to defer sentencing for anyone who pleads guilty or nolo contendere for up to five years under a written agreement signed by the defendant and the attorney general and filed with the court.</p>
<p>South Carolina (S.C. Code Ann. §§ 17-22-30 & 17-22-50)</p>	<p>South Carolina statute requires circuit solicitors (prosecutors) to establish pretrial intervention programs but gives them prosecutorial discretion concerning the programs. The law prohibits considering someone for intervention if they have previously been in an intervention program or been charged with certain crimes, including crimes of violence.</p>
<p>Tennessee (Tenn. Code Ann. § 40-15-105)</p>	<p>Tennessee statutes authorize granting of pretrial diversion one time to people charged with misdemeanors or felonies, with specific exceptions. The statute also has limitations regarding prior convictions. The program is granted by a memorandum of understanding between the parties specifying the conditions to be imposed on the defendant. Successful completion of the conditions in the memorandum result in dismissal of the charges.</p>
<p>Utah (Utah Code Ann. § 77-2-5)</p>	<p>Under Utah law, after a prosecution has begun but before conviction, a prosecuting attorney may, by written agreement with the defendant filed in and approved by the court, divert the defendant into a non-criminal diversion program. The diversion agreement must specify the conditions imposed, cannot last longer than two years, and is granted at the discretion of the prosecutor whose decision is not appealable. The statute prohibits a magistrate from granting diversion to anyone charged with certain felonies.</p>
<p>Vermont (Vt. Stat. Ann. Tit. 13 § 7041)</p>	<p>Under Vermont law, upon an adjudication of guilt and the filing of a presentence report the court may defer sentencing and place a defendant on probation under a written contract between the state’s attorney and the defendant, if the court believes that doing so is in the interests of justice. The contract must be filed with the court. Upon fulfillment of the probation terms and conditions, the court must strike the adjudication of guilt and discharge the defendant and expunge his record. The statute lays out the other conditions that apply, including the crimes that make a respondent ineligible for the deferment (e.g., DUI resulting in death or serious bodily injury).</p>
<p>Virginia (Va. Code Ann. § 19.2-303.2)</p>	<p>In Virginia, anyone with no prior felony convictions who is charged with any property crime classified as a misdemeanor may have further proceedings against them deferred and be placed on probation subject to terms and conditions set by the court. Fulfillment of the terms and conditions of the court order results in dismissal of the charges and no conviction is deemed to have occurred except for purposes of future eligibility for deferral under this law.</p>
<p>Washington (Wash. Rev. Code Ann. § 10.05.010)</p>	<p>Under Washington law, people charged with misdemeanors or gross misdemeanors can petition the court to be considered for a deferred prosecution program. People charged with traffic infractions, misdemeanors, or gross misdemeanors under the motor vehicle law are not eligible for deferred prosecution unless the court finds that their act was the result of alcoholism, drug addiction, or mental problems which will likely reoccur if not treated. Successful completion of the program results in dismissal of the charges.</p>
<p>Wisconsin (Wis. Stat. Ann. §§ 971.37 & 971.39)</p>	<p>Wisconsin has a statutory deferred prosecution program specifically targeted to people charged with child sexual abuse, and an authorization for district attorneys in smaller counties to enter deferred prosecution agreements.</p>

Table 1 (continued)

State (Statute)	Brief Summary
Wyoming (Wy. Stat. Ann. § 7-13-301)	Under Wyoming law, when a person with no previous felony convictions is found guilty or pleads guilty, the court may, with the consent of the defendant and the state and without entering a judgment of guilt, defer further proceedings and place him on probation (pretrial diversion program). People charged with specified felonies are not eligible for this deferral. The statute specifies the terms of the probation, and the court can discharge the person any time after one year if the terms have been fulfilled and the court is satisfied with the defendant's rehabilitation. Defendants are limited to a one-time program participation.

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