

## Pretrial Diversionary Programs Study Scope

### Introduction

Connecticut maintains a system of sanctions for criminal conduct in lieu of incarceration under certain circumstances. Pretrial diversionary options are alternatives to incarceration and probation.

These programs are typically available to non-violent offenders who can complete the rehabilitative programs and see their charges dismissed. This model is based on the recognition that not all offenders are the same, and that only some need the most intensive, restrictive, and expensive sanction of incarceration.

Pretrial diversionary programs for those charged with—but not yet convicted of—a crime include: accelerated rehabilitation (AR); pretrial drug, alcohol, family violence or school violence education; and mental health or substance abuse treatment among others.

If the accused defendant qualifies for and successfully completes a pretrial diversion program, the charge against that defendant is dismissed and will not appear as a criminal record.

### Pretrial Diversionary Programs in Connecticut

#### *Accelerated Pretrial Rehabilitation*

AR is available to defendants who are charged with certain crimes or motor vehicle violations if the court believes that those defendants are unlikely to commit more crimes in the future. Defendants can ask for AR, or it may be recommended by the prosecutor. Defendants who wish to take part in AR must meet the eligibility requirements of section 54-56e of the Connecticut General Statutes.

#### *Pretrial Alcohol Education Program*

The pretrial alcohol education program (AEP) is a program available to eligible defendants charged with operating a motor vehicle or a boat under the influence of alcohol or drugs. AEP provides eligible defendants with the opportunity to engage in alcohol education or substance abuse treatment instead of going to trial. Defendants who want to participate in AEP must meet the eligibility requirements of section 54-56g of the Connecticut General Statutes.

#### *Drug Education and Community Service Program*

The drug education and community service program (DECSP) is available to eligible defendants charged with violating certain drug possession or drug paraphernalia laws. The DECSP provides these defendants with an opportunity to engage in drug education or substance abuse treatment and participate in community service instead of going to trial. Any defendant who wants to participate in the program must meet the eligibility requirements of section 54-56i of the Connecticut General Statutes.

#### *Pretrial Family Violence Education Program (FVEP)*

FVEP is available for defendants who are charged with certain family violence crimes. The FVEP gives eligible defendants the chance to attend programs that provide education about family violence instead of going to trial. Family violence generally means an incident that results in physical harm, or an act of

threatened violence between, family or household members. Family violence crimes are defined in section 46b-38a of the Connecticut General Statutes.

*The Community Service Labor Program (CSLP)*

CSLP is available to certain defendants who have been convicted of violating the drug possession or drug paraphernalia laws under section 21a-267 or 21a-279 of the Connecticut General Statutes. This program allows an eligible defendant to be placed on probation or conditional discharge and do community service instead of going to jail. Any defendant who wants to take part in the CSLP must meet the eligibility requirements under section 53a-39c of the Connecticut General Statutes.

*School Violence Prevention Program*

The School Violence Prevention Program allows certain public or private school students who are charged with an offense involving the use or threatened use of physical violence in or on the property of a school to attend a one-year school violence prevention program instead of going to trial. Students who want to take part in the School Violence Prevention Program must meet the eligibility requirements under section 54-56j of the Connecticut General Statutes.

*Supervised Diversionary Program (SDP)*

SDP gives defendants who have psychiatric disabilities or who are veterans with a mental health condition that is amenable to treatment the chance to get treatment instead of going to trial for charges of certain crimes or motor vehicle violations that are not serious. For this program, a psychiatric disability is a mental or emotional condition, other than substance abuse, that has a major negative impact on a defendant's ability to function and requires care and treatment. Defendants who want to take part in the Supervised Diversionary Program must meet the eligibility requirements under section 54-56l of the Connecticut General Statutes.

*The Suspended Prosecution for Illegal Sale, Delivery, or Transfer of Pistols or Revolvers program*

The Suspended Prosecution for Illegal Sale, Delivery, or Transfer of Pistols or Revolvers program gives defendants who are charged with the illegal sale, delivery, or transfer of pistols or revolvers the chance to avoid going to trial if the court believes that those defendants will probably not commit more crimes in the future. Defendants who want to take part in this program must meet the eligibility requirements under section 29-33 (h) of the Connecticut General Statutes.

*Treatment of Defendants who are Dependent on Drugs or Alcohol*

Under sections 17a-694 to 17a-698 of the Connecticut General Statutes, courts may order defendants who are charged with certain crimes and who are dependent on drugs or alcohol to get treatment instead of going to trial. The program is available for many crimes, including all drug sale and possession crimes. Defendants who want to take part in this program must meet the eligibility requirements under section 17a-696 of the Connecticut General Statutes.

*Treatment of Convicted Defendants who are Dependent on Drugs or Alcohol*

Under sections 17a-694, 17a-699 to 17a-701 of the Connecticut General Statutes, courts may order defendants who are convicted of certain crimes and who are dependent on drugs or alcohol to get treatment instead of going to jail. The program is available for many crimes, including all drug sale and possession crimes. After a defendant who is dependent on drugs or alcohol has been convicted of a crime, a probation officer may ask the defendant to get an examination from a Department of Mental Health and Addiction Services (DMHAS) clinical examiner as part of a presentence investigation (PSI), to

make a determination on whether the defendant should be able to go into this program instead of going to jail.

#### *Jail Diversion/Court Liaison Program*

Under section 17a-486 of the Connecticut General Statutes, this program provides mental health assessment, referral and linkages to community services to prevent incarceration. The Department of Mental Health and Addiction Services has clinicians in all 20 arraignment courts in the state.

#### **Governor's request to for the diversionary programs study**

On November 5, 2015, Governor Dannel Malloy wrote a letter to the Connecticut Sentencing Commission requesting a study of Connecticut's existing jail diversionary programs. The Governor asked the Commission to examine "how these programs are meeting the needs of the state and its citizens." The Governor noted that he has heard concerns from prosecutors, judges, defense attorneys and victims that the variety of diversionary programs available in Connecticut is confusing, that these programs have become automatic, resulting in offenders being shifted from one program to another without a case-by-case analysis of their situation, and may postpone the time by which an individual defendant's needs are addressed in a comprehensive way. The Commission was asked to assess the scope of the diversionary programs and to determine how effective those programs are.

#### **Areas of Analysis**

This Study will:

- Assess the scope of the existing diversionary programs in Connecticut, their mandates and objectives.
- Examine the cost and funding mechanisms of the diversionary programs.
- Analyze the effectiveness and efficiency of diversionary programs in treating the relevant populations and preventing recidivism.
- Examine best evidence-based practices in diversionary programs.
- Examine the costs and benefits of having one generic diversionary program, with one application process and one length of time.
- If warranted, propose recommendations for statutory revisions to diversionary programs.

As part of this analysis, the Sentencing Commission will collaborate with the Results First Initiative<sup>1</sup> project, administered by the Institute for Municipal and Regional Policy (IMRP). Results First uses a sophisticated econometric model to analyze the costs and benefits of evidence-based programs across a wide variety of social policy areas, including adult criminal justice. The model applies the best available national rigorous research on program effectiveness to predict the programmatic and fiscal outcomes of the evidence-based programs under review in this study.

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<sup>1</sup> The Pew-MacArthur Results First Initiative, a project of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, works with states to implement an innovative cost-benefit analysis approach that helps them invest in policies and programs that are proven to work. Results First has also received support from the Annie E. Casey Foundation.

The program inventories that the Judicial Branch’s Court Support Services Division and the Department of Mental Health and Addiction Services are currently preparing pursuant to requirements in PA 15-5, June Special Session will provide detailed information on diversionary programs offered by these two agencies. The inventories will include (1) program descriptions, (2) information on their capacity and the number of participants served, (3) details of participant characteristics (e.g., average age), (4) cost data including the total budget for the program along with either average or marginal costs, and (5) whether a program is evidence-based. Once the program inventories are submitted, the IMRP is required to calculate the cost-benefit analysis. The inventories themselves along with calculation of the cost-benefit analyses and long-term return on investment will inform the Sentencing Commission’s findings and recommendations.

### **Timeline for Study**

The Sentencing Commission will complete this study within a year with possible recommendations before the 2017 legislative session. See the projected timelines below in the proposed project plan.

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**Connecticut Pretrial Diversionary Programs  
Project Plan for the Connecticut Sentencing Commission (CSC) Study**

**I. Background Review and Research**

For each of the 11 statutory diversionary programs listed in the Study Scope above, the Sentencing Commission staff and the Institute for Municipal and Regional Policy staff will identify the following:

Description

- Statutory authority
- Purpose
- Background
- Program process, practices, and procedures

Administration

- Implementing/oversight agency(ies)
- Number of full-time/part-time agency staff dedicated to program operations
- Contractor(s), if applicable

Financial

- Funding source(s)
- Costs
  - Total program cost
  - Cost per participant

Participation Analysis

- Eligibility criteria
- Total capacity
- Annual total number eligible for the program (data for latest fiscal year available)
- Annual program participation number (data for latest fiscal year available)
- Annual program participant completion number (data for latest fiscal year available)

Results

- Recidivism rates
- Other relevant outcome or impact measures

Timeline: January – April, 2016

## II. Best Practices

- Identify other diversionary programs, innovations, or reform models from other states, and exemplary Connecticut program practices and procedures using resources such as the [Washington State Institute for Public Policy](#), the [Pew-MacArthur Results First Clearinghouse database](#) and other federal and state criminal justice agencies.

Timeline: March – May, 2016

## III. Outreach

### *Connecticut Sentencing Commission Work Group*

A work group of CSC members will review diversionary program research and establish procedures for collecting additional information and input prior to focus on the analysis phase.

### *Stakeholders*

Using interviews or focus groups, identify, solicit, and incorporate views of relevant organizations or individuals, including but not limited to:

- Superior Court judges
- Judicial Branch Court Support Services Division
- Division of Criminal Justice
- Division of Public Defender Services
- Department of Mental Health and Addiction Services
- Program participants
- Private defense counsel
- Private providers

Timeline: Summer 2016

## IV. Analysis

- Apply Results First cost-benefit analysis for each related evidence-based diversionary program
- Collect, examine, and summarize diversionary program data, impacts, and evaluations
- Determine duplicative or excluded service needs among programs
- Summarize and formulate findings
- CSC work group will draft proposed recommendations to submit to the Commission

Timeline: September – November 2016

**V. Recommendations**

- Finalize recommendations for statutory, administrative, or policy changes for consideration and approval by the Connecticut Sentencing Commission (by December 8, 2016)
- Submit final report to the Office of the Governor and the legislature.

Timeline: January 1, 2017

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