

Adult Diversion Program Overview

The Adult Diversion Program, governed by §18-1.3-101, C.R.S., provides an alternate path through the criminal legal system, in contrast to traditional plea, trial, and sentencing proceedings. This alternate path may offer participants the opportunity to receive help with challenges that led to their involvement in the criminal legal system, such as mental health or substance use treatment. Diversion can hold participants accountable for their conduct while supporting their stabilization, improved decision-making, reparation of harm to victims, and reduced commission of crime. District attorneys (DAs) may offer diversion before or after filing criminal charges, but before trial or entry of a plea. DA offices, law enforcement, pretrial service organizations, and probation departments may oversee compliance with diversion agreements. After successful completion of diversion, charges are dismissed and diversion participants may request that arrest and other criminal court records regarding the offense be sealed, pursuant to §24-72-704 and §24-72-705.

Consistent with §13-3-115, the Adult Diversion Funding Committee annually reviews diversion program funding applications submitted by local DA offices and makes funding awards. The State Court Administrator’s Office (SCAO) coordinates and supports the work of the Funding Committee, overseeing the funding allocation, reporting requirements, and otherwise supporting local diversion programs. New and existing diversion programs may apply for funding. See §18-1.3-101 for statutory specific requirements and prohibitions. Future awards are subject to application, Funding Committee allocation, and legislative funding.

FY23 Grant Timeframes and Deadlines	
1/31/2022 2/11/2022	Optional webinars about FY23 (7/1/2022-6/30/2023) adult diversion program application
4/5/2022	Adult Diversion Funding Application due to kara.martin@judicial.state.co.us
4/19/2022	Adult Diversion Funding Committee 10-minute virtual or phone meetings with applicants
10/30/2022	Quarterly reporting due for Q1 (7/1/2022-9/30/2022)
1/30/2023	Quarterly reporting due for Q2 (10/1/2022-12/31/2022)
4/30/2023	Quarterly reporting due for Q3 (1/1/2023-3/31/2023)
6/30/2023	Deadline for expenditure of FY23 award (receipt of goods/services)
7/30/2023	Quarterly reporting, including end of year, due for Q4 (4/1/2023-6/30/2023), except reimbursement request due 6/30/2023

Other Grant Requirements		
1	Interagency agreement with the State Court Administrator’s Office	
2	Compliance with data collection, reporting, and billing policies and procedures	
3	Quarterly Program/Participant Data	Data Requirements (including, but not limited to, the following)
		<ul style="list-style-type: none"> • # people screened for diversion • # people meeting program criteria • # people denied program entry • # people enrolled/declining to enroll • Participant demographics • Case supervision data • Participant status • Participant intake/exit information
4	Quarterly Financial Updates	<ul style="list-style-type: none"> • Expenditures, reimbursement request and supervision fees collected • Programs must maintain and provide proof of expenditures upon request
5	End of Year Report, including but not limited to, 1 and 3 year recidivism data (with SCAO assistance), aggregate outcomes, restitution, and program policies and eligibility guidelines	

Adult Diversion Funding Committee Funding Guidance	
The Funding Committee supports locally driven diversion programming, in accordance with §18-1.3-101, and recognizing the unique challenges faced by rural communities, including resource limitations and a shortage of service providers	Given the statutory focus on diversion of crimes , funding is not intended to divert civil infractions.
	Given the legislative intent of repairing harm to victims and facilitating the payment of restitution, diversion of crimes involving victims who have been harmed and/or who are owed restitution are generally a higher priority than diversion of victimless crimes.
	Given the statutory references to rehabilitation and reintegration , the diversion of crimes and participants receiving rehabilitation services and/or reintegration assistance is a higher priority than diversion of those not requiring such interventions.
	Given the statutory reference to collateral consequences resulting from convictions, offenses for which convictions would likely result in more serious collateral consequences are considered higher priority.

Permissible Uses of Adult Diversion Funding	
Personnel	e.g., salaries, wages, and benefits for full- or part-time or contract employees, including Diversion Coordinators, Behavioral Health Navigators, and others working with diversion candidates/participants or administering the program
Training	e.g., DA staff or stakeholder training, other than CCJC, regarding case management, assessment, and other skills that enhance service delivery
Consultants/ Contract support	e.g., payment of non-employees to improve service delivery and further general or participant-related program or statutory goals or outcomes
Operating	e.g., expenses for program-related daily operations, such as office supplies, monitoring services, software licenses, etc., incurred by or for the benefit of DA diversion programs
MH Assessment, Evaluation and/or Treatment (as payor of last resort)	Services of licensed, certified, or accredited providers to: <ul style="list-style-type: none"> • reduce recidivism or criminogenic risk • address the nature of the crime charged and circumstances surrounding it • address special circumstances/characteristics of participants
Case Management/ Support Services (as payor of last resort)	Case management or support services to: <ul style="list-style-type: none"> • assist participants with basic needs critical to their stability, such as housing, employment, medical/dental care, etc. • reduce recidivism or criminogenic risk • address the nature of the crime charged and circumstances surrounding it • address special circumstances/characteristics of participants
Law Enforcement/ Jail Compensation	e.g., in-custody screening, data collection and reporting, etc.
Participant Needs/ Support	e.g., transportation, medication, transitional housing, etc.

Statutory Requirement Summary, See §18-1.3-101 for Specifics	
Period of Diversion	2-year maximum, and 1-year extension for restitution payment. See §18-1.3-101(2)
Eligibility Guidelines/ Policies	Policies/guidelines stating eligibility criteria, including consideration of: <ul style="list-style-type: none"> • Nature of the crime charged and circumstances • Special characteristics/circumstances of person accused • Whether diversion is consistent with the person’s rehabilitation and reintegration • Whether diversion will serve the public interest
	DA may require information from the person accused, such as prior criminal charges, education, work experience, family, and residence in the community in deciding diversion eligibility.
	The person accused may consult with legal counsel before consenting to diversion. See §18-1.3-101(3) and (4).
Offenses involving Domestic Violence (DV)	See §18-1.3-101(5). Charges must be filed. The person accused must have the opportunity to consult with counsel and must complete a DV treatment evaluation by a DVOMB provider using a DV risk assessment instrument. The DA must find the person appropriate for diversion based on the evaluation and statutory factors.
Sex Offenses (SO)	See §18-1.3-101(6) and (7). Charges must be filed. The person accused must have the opportunity to consult with counsel and must complete a SO-specific evaluation by a SOMB provider, using a SO-specific risk assessment instrument. The DA must find the person appropriate for diversion based on the SO-specific evaluation and other statutory factors. Some sex offenses cannot be diverted.

Diversion Agreement Terms, See §18-1.3-101	
Required Terms	<ul style="list-style-type: none"> • Individualized agreement, signed by the person, their attorney (if any), and DA • Written waiver of speedy trial for period of the diversion • Prohibition against committing criminal offenses during period of diversion • Diversion conditions for proper supervision at the level necessary to facilitate rehabilitation and ensure successful completion of diversion agreement • Dismissal of charges with prejudice upon successful completion of diversion agreement
Permissible/ Discretionary Terms	<ul style="list-style-type: none"> • Payment of restitution and court costs • Payment of supervision fees (limited by §18-1.3-204 (2)(a)(V)) to fund diversion program • Participation in restorative justice practices (See §18-1-901(3)(o.5)) • Assessment of criminogenic needs and participation in self-paid interventions unless indigent (e.g., medical, therapeutic, educational, vocational, corrective, preventive) • Statement of facts admissible as impeachment evidence in prosecution if unsuccessful completion of diversion agreement • Filing of diversion agreement with court (caveat: must file with court if probation provides supervision)
Prohibited Terms	<ul style="list-style-type: none"> • Requirement of plea as a condition of diversion
Prosecution of Charges	<ul style="list-style-type: none"> • See §18-1.3-101(10) regarding prosecution of charges due to violation of diversion conditions.

Questions? Please contact Kara Martin at (720) 625-5963 or kara.martin@judicial.state.co.us