

**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 or trial, conviction or acquittal, and sentencing proceedings.

**Legislative intent of the Adult Diversion Program:** *To facilitate and encourage diversion, including diversion of people with behavioral health disorders, when diversion may prevent people from committing additional criminal acts, restore victims of crime, facilitate the ability to pay restitution to crime victims, and reduce the number of cases in the criminal legal system. Diversion should assure accountability while allowing people to avoid the collateral consequences associated with criminal charges and convictions.*

Diversion may help people with challenges that led to their involvement in the criminal legal system, such as untreated mental health or substance use disorders. Diversion programs are required to consider diversion-eligible people who have mental health and/or substance use disorders and divert them out of the criminal legal system and into community treatment programs, pursuant to §18-1.3-101, C.R.S., as amended by SB22-10 and SB22-196.

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 participants may request the sealing of arrest and other criminal court records regarding the diverted offense.

Consistent with §13-3-115, the Adult Diversion Funding Committee annually reviews diversion program funding applications submitted by DA offices and makes funding awards. The State Court Administrator’s Office (SCAO) coordinates the Funding Committee’s work by supporting funding allocation, reporting requirements, and the needs of local diversion programs.

**Key Requirements of Adult Diversion Grant Recipients**

Execution of and compliance with Intergovernmental Agreement, including:

- Compliance with federal funding regulations and requirements, including grant-related time keeping and documented Sam.gov verification for all payees of grant funds (providers, subcontractors, etc.);
- Compliance with Sec. 18-1.3-101, C.R.S., as amended by SB22-10 and SB22-196;
- On-time quarterly reports (Summary Data, Reimbursement Request, Participant Database, Year End).

**FY23 Grant Deadlines**

<b>10/3/2022</b>	Quarterly reporting due for Q1 (7/1/2022-9/30/2022)
<b>1/3/2023</b>	Quarterly reporting due for Q2 (10/1/2022-12/31/2022)
<b>4/3/2023</b>	Quarterly reporting due for Q3 (1/1/2023-3/31/2023)
<b>6/30/2023</b>	Deadline for expenditure of FY23 award (receipt of goods/services)
<b>7/3/2023</b>	Quarterly reporting and year-end report, due for Q4 (4/1/2023-6/30/2023)

<b>Permissible Funding Use</b>	
<ul style="list-style-type: none"> <li>✓ Expenditures must be consistent with approved program budgets or approved budget amendment requests;</li> <li>✓ Consistent with federal funding restrictions; and</li> <li>✓ Supported by documentation (invoices, receipts, Sam.gov approval, time-keeping records).</li> </ul>	
<b>District Attorney Staff Compensation</b>	<ul style="list-style-type: none"> <li>• DA staff salary and/or benefits</li> <li>• Grant-related timekeeping required</li> </ul>
<b>District Attorney Staff Training</b>	<ul style="list-style-type: none"> <li>• Compliance with local per diem/travel rules required</li> </ul>
<b>Consultants/ Contract Support</b>	<ul style="list-style-type: none"> <li>• Including county/nonprofit subcontractors that administer the program, provide harm reduction consulting, conduct restorative justice practices, etc.</li> <li>• Documented payee eligibility to receive federal funds through Sam.gov required</li> </ul>
<b>Operating Expenses</b>	<ul style="list-style-type: none"> <li>• Must be <i>pre-approved</i> in program budgets</li> </ul>
<b>Behavioral Health Assessment, Evaluation, Treatment</b>	<ul style="list-style-type: none"> <li>• As payor of last resort</li> <li>• May include drug/alcohol monitoring or testing</li> <li>• Documented payee eligibility to receive federal funds through Sam.gov required</li> </ul>
<b>Case Management/ Participant Support Services</b>	<ul style="list-style-type: none"> <li>• Support basic needs and participant stabilization, including assistance with public benefit program enrollment</li> <li>• Reduce recidivism or criminogenic risk</li> <li>• Address the nature and/or circumstances of the crime</li> <li>• Address special circumstances/characteristics of participants</li> <li>• May include salary/benefit reimbursement or fee for services</li> <li>• Grant-related timekeeping required for salary/benefit reimbursement</li> <li>• As a payor of last resort</li> <li>• Documented payee eligibility to receive federal funds through Sam.gov required</li> </ul>
<b>Participant Stabilization Needs</b>	<ul style="list-style-type: none"> <li>• Educational/vocational assistance for employment (class fee, tools, uniform, office attire, etc.)</li> <li>• Emergency/transitional housing (rent assistance, hotel vouchers)</li> <li>• Utility assistance</li> <li>• Day care assistance</li> <li>• Groceries (including grocery cards, etc.)</li> <li>• Medication (including MAT), general medical/dental treatment, prescription lenses</li> <li>• Transportation (ride services, gas cards, bus passes, etc.)</li> <li>• Cell phones/phone cards</li> <li>• Fees for vital documents, ID, or applications</li> <li>• Peer mentors, recovery coaches</li> <li>• Clothing</li> </ul>

<b>Statutory Requirement Summary, See §18-1.3-101 for Specifics</b>	
<b>Period of Diversion</b>	2-year maximum, and 1-year extension for restitution payment. See §18-1.3-101(2)
<b>Eligibility Guidelines/ Policies</b>	<p>Policies/guidelines stating eligibility criteria, including consideration of:</p> <ul style="list-style-type: none"> <li>• Nature of the crime charged and circumstances</li> <li>• Special characteristics/circumstances of person accused, which may include mental health or other behavioral health disorders</li> <li>• Whether diversion is consistent with the person’s rehabilitation and reintegration</li> <li>• Whether diversion will serve the public interest</li> </ul>
	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).
<b>Offenses involving Domestic Violence (DV)</b>	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.
<b>Sex Offenses (SO)</b>	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.
<b>Diversion Agreement Terms, See §18-1.3-101</b>	
<b>Required Terms</b>	<ul style="list-style-type: none"> <li>• Individualized agreement, signed by the person, their attorney (if any), and DA</li> <li>• Written waiver of speedy trial for period of the diversion</li> <li>• Prohibition against committing criminal offenses during period of diversion</li> <li>• Diversion conditions for proper supervision at the level necessary to facilitate rehabilitation and ensure successful completion of diversion agreement</li> <li>• Dismissal of charges with prejudice upon successful completion of diversion</li> </ul>
<b>Permissible/ Discretionary Terms</b>	<ul style="list-style-type: none"> <li>• Payment of restitution and court costs</li> <li>• Payment of supervision fees (limited by §18-1.3-204 (2)(a)(V))</li> <li>• Participation in restorative justice practices (See §18-1-901(3)(o.5))</li> <li>• Agreement to receive treatment for behavioral health disorders</li> <li>• Assessment of criminogenic needs and participation in self-paid interventions unless indigent (e.g., medical, therapeutic, educational, vocational, corrective, preventive)</li> <li>• Statement of facts admissible as impeachment evidence in prosecution if unsuccessful completion of diversion agreement</li> <li>• Filing of diversion agreement with court (caveat: must file with court if probation provides supervision)</li> </ul>
<b>Prohibited Terms</b>	<ul style="list-style-type: none"> <li>• Requirement of plea as a condition of diversion</li> </ul>
<b>Prosecution of Charges</b>	<ul style="list-style-type: none"> <li>• See §18-1.3-101(10 ) regarding prosecution of charges due to violation of diversion conditions.</li> </ul>

Adult Diversion Funding Committee Funding Guidance	
<p>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</p>	<p>Given the statutory focus on <b>diversion of crimes</b>, funding is not intended to divert civil infractions.</p>
	<p>Given the legislative intent of repairing harm to victims and facilitating the payment of restitution, <b>diversion of crimes involving victims who have been harmed and/or who are owed restitution</b> are generally a higher priority than diversion of victimless crimes.</p>
	<p>Given the statutory references to <b>rehabilitation and reintegration</b>, 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.</p>
	<p>Given the statutory reference to collateral consequences resulting from convictions, offenses for which convictions would likely result in more <b>serious collateral consequences</b> are considered higher priority.</p>

Resources and Information
<p><b>Adult Diversion web page:</b> <a href="https://www.courts.state.co.us/Administration/Unit.cfm?Unit=adultdiv">https://www.courts.state.co.us/Administration/Unit.cfm?Unit=adultdiv</a>, including Colorado Diversion and ARPA-Related Resources and Federal Funding Requirements for receipt of American Rescue Plan Act of 2021 funding through Colorado's Behavioral Health Cash Fund.</p> <p><b>Office of State Controller web page:</b> <a href="https://osc.colorado.gov/american-rescue-plan-act">https://osc.colorado.gov/american-rescue-plan-act</a>, regarding federal funding requirements</p>
<p><b>Questions?</b> Please contact Kara Martin at (720) 625-5963 or <a href="mailto:adultdiversion@judicial.state.co.us">adultdiversion@judicial.state.co.us</a>.</p>