

RHODE ISLAND SUPERIOR COURT
DIVERSION PROGRAM

Following the completion of the Superior Court Diversion Program's pilot year and after review of current procedures, the following protocols have been promulgated due to current restrictions attendant to Covid-19:

REFERRALS

- Any party may refer qualified individuals for participation in the Diversion Program by submitting a referral form to diversionreferrals@courts.ri.gov.
- The form can be found on the RI Judiciary Superior Court home page or by clicking on the following hyperlink:
<https://www.courts.ri.gov/PublicResources/forms/Superior%20Court%20Forms/Diversion%20Program%20Referral%20Form.pdf>.
- Once the application is received, diversion staff will review all referrals for legal eligibility as defined in §8-2-39.3 of the Rhode Island General Laws.
- For those defendants deemed legally eligible for participation in the program, applicants and counsel will be contacted to schedule an intake interview.
- If it is determined that the individual does not statutorily qualify for participation in the program, counsel and/or the applicant will be notified and the case will be returned to the Attorney General's Office for felony screening or the Superior Court calendar from which it was referred.
- Should counsel have questions concerning the eligibility determination, he or she should contact the Assistant Attorney General assigned to the Diversion calendar (currently Deputy Assistant Attorney General Jeanine McConaghy at jmccconaghy@riag.ri.gov) for additional information.
- If an applicant has previously been referred and rejected from the program based upon his/her failure to respond, counsel **must obtain court approval before making a re-referral.**

INTERVIEW

- The Intake Interviews will be conducted by members of the Attorney General's Office Diversion Unit. For the time being, all interviews will be handled remotely.
- Once the interview is completed, an intake package will be sent to counsel and the court for review. The matter will then be assigned for an **Eligibility Review** with the Court and an assigned member of the Attorney General's Office.
- If a defendant **fails to complete the required interview**, the matter will be scheduled for an **Eligibility Hearing** before the Court at which time the defendant's continued consideration will be evaluated.

- If after an interview it is determined that the defendant is eligible but the Department of Attorney General objects to his/her participation, the matter will be scheduled for an **Eligibility Hearing** at which time the Court will make the ultimate decision.

ELIGIBILITY REVIEW

- Once the applicant has been deemed eligible and there is no objection to his her/participation, the case will be scheduled for a review wherein counsel will negotiate and agree to the conditions of participation.
- Once the conditions are settled and the defendant has agreed to same, the matter will be reassigned for the defendant to appear and execute the participation agreement.
- **It is important that all participants required to complete a substance abuse or mental health evaluation complete their evaluations before their scheduled court date.**
- The Agreement and Release of Confidential Information can be found under the Superior Court Forms tab on the RI Judiciary website

*****DEFENDANTS ARE NOT TO REPORT TO THE COURTHOUSE FOR
THE ELIGIBILITY REVIEW*******

ELIGIBILITY HEARINGS

- Once the parties have arrived at an agreement regarding participation, the case will be assigned for judicial review and entry of the Superior Court Diversion Participation Agreement.
- Likewise, if there is an objection to an individual's participation that requires judicial review, the matter will be assigned an Eligibility Hearing.
- Hearings for the entry of Participation Agreements and/or contested matters will be scheduled throughout the day beginning at 10:30 a.m. At this time, no more than five (5) hearings will be scheduled per hour.

PROGRESS REVIEW HEARINGS

- The Court will assign cases for a progress review hearing 90 days following the entry of the Agreement.
- If the defendant is compliant, Diversion staff will notify the participant and counsel that they need not appear for the progress review hearing. For these individuals, another progress review hearing will be scheduled for a future date, typically 90 days.
- If Diversion staff believe a participant is failing to comply with his/her conditions, both the participant and attorney will be expected to appear for this scheduled date at the assigned time.
- If necessary, the progress review date may be advanced on the calendar with notice to the participant and his/her attorney.

GRADUATION

- Participants are required to remain in the program for a period of 6-12 months as determined by the Court
- Once the participant has successfully completed the program requirements, he or she will be scheduled for a graduation date.
- For the time being, participants will not be required to attend the final court date but will instead be notified by the Diversion staff that they have been successfully discharged from the program.

This protocol will take effect immediately and shall remain in effect until rescinded by the Court.

/s/

Maureen B. Keough

Associate Justice

Dated: March 1, 2021