



Task Force on Juvenile Diversion

June 12, 2024

THE SUPREME COURT *of* OHIO

The Role of the Juvenile Division of the Court of Common Pleas R.C. 2152.01



- The overriding purposes for juvenile dispositions are to:
 1. Provide for the care, protection, and mental and physical development of children;
 2. Protect the public interest and safety;
 3. Hold the offender accountable for the offender's actions
 4. Restore the victim; and
 5. Rehabilitate the offender.
- These purposes shall be achieved by a system of graduated sanctions and services.

Diversion Statutes & Rules



- Adult Diversion R.C. 2935.36
- Juvenile Diversion R.C. Sections: 2151.27, 2152.021, and 4301.69
- Juvenile Rule 9 (Am. Eff. July 1, 2024)



Adult Diversion

R.C. 2935.36

R.C. 2935.36

Adult Diversion Statute



(A) The prosecuting attorney may establish pre-trial diversion programs for adults who are accused of committing criminal offenses and whom the prosecuting attorney believes probably will not offend again. The prosecuting attorney may require, as a condition of an accused's participation in the program, the accused to pay a reasonable fee for supervision services that include, but are not limited to, monitoring and drug testing. The programs shall be operated pursuant to written standards approved by journal entry by the presiding judge or, in courts with only one judge, the judge of the court of common pleas and shall not be applicable to any of the following:

- (1) Repeat offenders or dangerous offenders;

R.C. 2935.36

Adult Diversion Statute (continued)



2) Persons accused of an offense of violence, of a violation of section [2903.06](#), [2907.04](#), [2907.05](#), [2907.21](#), [2907.22](#), [2907.31](#), [2907.32](#), [2907.34](#), [2911.31](#), [2919.12](#), [2919.13](#), [2919.22](#), [2921.02](#), [2921.11](#), [2921.12](#), [2921.32](#), or [2923.20](#) of the Revised Code, or of a violation of section [2905.01](#), [2905.02](#), or [2919.23](#) of the Revised Code that, had it occurred prior to July 1, 1996, would have been a violation of section [2905.04](#) of the Revised Code as it existed prior to that date, with the exception that the prosecuting attorney may permit persons accused of any such offense to enter a pre-trial diversion program, if the prosecuting attorney finds any of the following:

- (a) The accused did not cause, threaten, or intend serious physical harm to any person;
- (b) The offense was the result of circumstances not likely to recur;
- (c) The accused has no history of prior delinquency or criminal activity;
- (d) The accused has led a law-abiding life for a substantial time before commission of the alleged offense;
- (e) Substantial grounds tending to excuse or justify the alleged offense.

R.C. 2935.36

Adult Diversion Statute (continued)



(3) Persons accused of a violation of Chapter 2925. or 3719. of the Revised Code, with the exception that the prosecuting attorney may permit persons accused of any of the following to enter a pre-trial diversion program:

(a) A misdemeanor, fifth degree felony, or fourth degree felony violation of section [2925.11](#) of the Revised Code;

(b) A misdemeanor violation of section [2925.12](#), 2925.13, or division (C)(1) of section [2925.14](#) of the Revised Code.

(4) Persons accused of a violation of section [4511.19](#) of the Revised Code or a violation of any substantially similar municipal ordinance;

R.C. 2935.36

Adult Diversion Statute (continued)



(5)(a) Persons who are accused of an offense while operating a commercial motor vehicle or persons who hold a commercial driver's license and are accused of any offense, if conviction of the offense would disqualify the person from operating a commercial motor vehicle under Chapter 4506. of the Revised Code or would subject the person to any other sanction under that chapter;

(b) As used in division (A)(5) of this section, "commercial driver's license" and "commercial motor vehicle" have the same meanings as in section 4506.01 of the Revised Code.

R.C. 2935.36

Adult Diversion Statute (continued)



(B) An accused who enters a diversion program shall do all of the following:

(1) Waive, in writing and contingent upon the accused's successful completion of the program, the accused's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the accused, and arraignment, unless the hearing, indictment, or arraignment has already occurred;

(2) Agree, in writing, to the tolling while in the program of all periods of limitation established by statutes or rules of court, that are applicable to the offense with which the accused is charged and to the conditions of the diversion program established by the prosecuting attorney;

(3) Agree, in writing, to pay any reasonable fee for supervision services established by the prosecuting attorney.

R.C. 2935.36

Adult Diversion Statute (continued)



(C) The trial court, upon the application of the prosecuting attorney, shall order the release from confinement of any accused who has agreed to enter a pre-trial diversion program and shall discharge and release any existing bail and release any sureties on recognizances and shall release the accused on a recognizance bond conditioned upon the accused's compliance with the terms of the diversion program. The prosecuting attorney shall notify every victim of the crime and the arresting officers of the prosecuting attorney's intent to permit the accused to enter a pre-trial diversion program. The victim of the crime and the arresting officers shall have the opportunity to file written objections with the prosecuting attorney prior to the commencement of the pre-trial diversion program.

R.C. 2935.36

Adult Diversion Statute (continued)



(D) If the accused satisfactorily completes the diversion program, the prosecuting attorney shall recommend to the trial court that the charges against the accused be dismissed, and the court, upon the recommendation of the prosecuting attorney, shall dismiss the charges. If the accused chooses not to enter the prosecuting attorney's diversion program, or if the accused violates the conditions of the agreement pursuant to which the accused has been released, the accused may be brought to trial upon the charges in the manner provided by law, and the waiver executed pursuant to division (B)(1) of this section shall be void on the date the accused is removed from the program for the violation.



Juvenile Diversion

R.C. Sections 2151.27, 2152.021, and 4301.69

R.C. 2151.27

Diversion of “unruly” children



(F) *allows* a court to hold an unruly child complaint in abeyance pending a child’s successful completion of a diversion action. The court may then dismiss the complaint if the child completes the actions to the court’s satisfaction.

(G) *requires* a court to consider an alternative to adjudication if the unruly child complaint is based solely on the child being a habitual truant.

R.C. 2152.021

Diversion of “delinquent” or “juvenile traffic offender”



(F) *allows* a court to hold a complaint in abeyance, upon a petition by the child, the child’s attorney, the child’s guardian ad litem, or the prosecuting attorney, if the child is a victim of human trafficking or commits acts that would be a violation of the solicitation statutes if the child were an adult.

(F) also *allows* the court to grant the petition without a hearing, but *requires* the court to notify the prosecuting attorney if a hearing takes place.

R.C. 4301.69

Underage persons concerning liquor



(E) *allows* a court to hold a complaint in abeyance and order a child into diversion if the child is charged with violating prohibitions set forth in subsection (E) (1) – purchasing and /or consuming alcohol as an underage person.



Juvenile Rule 9

Am. Eff. July 1, 2024

Juvenile Rule 9. Intake

Effective July 1, 2024



(A) Court action to be avoided

In all appropriate cases formal court action should be avoided and other community resources utilized to ameliorate situations brought to the attention of the court.

(B) Notification

If formal court action is avoided pursuant to division (A) of this rule, the court shall notify the prosecuting attorney and the victim of the offense in accordance with Chapter 2930 of the Revised Code.

Marsy's Law Overview



- Article I, Section 10(a) of the Ohio Constitution
- Legislative Implementation H.B. 343, 134th General Assembly

Article I, Section 10(a)



(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

- (1) to be treated with fairness and respect for the victim's safety, dignity and privacy;
- (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;
- (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;
- (4) to reasonable protection from the accused or any person acting on behalf of the accused; in this section.

Article I, Section 10(a) (continued)



- (5) upon request, to reasonable notice of any release or escape of the accused;
- (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;
- (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;
- (8) to proceedings free from unreasonable delay and a prompt conclusion of the case;
- (9) upon request, to confer with the attorney for the government; and
- (10) to be informed, in writing, of all rights enumerated

Article I, Section 10(a) (continued)



(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

Article I, Section 10(a) (continued)



(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

House Bill 343 – 134th General Assembly

Effective on April 6, 2023



- Provides for:
 - Victim representatives
 - How victims elect to exercise rights
 - Right to counsel
 - Right to interpreter
 - Hearing notice
 - Testimonial rights
 - The right to presence and participation in proceedings
 - Court inquiry of prosecutor regarding conferring with victim
 - Standing to appeal
 - Restitution



How do you define “diversion?”



When should diversion occur?