

Planning re Pre-charge Diversion in CN – AGO Update

October 10, 2024

Themes from discussions held to date

Following meetings with the four Chittenden County CJC directors and municipal leaders (town managers, mayoral representative and police chiefs), the following themes have emerged.

- Challenge of funding uncertainty for pre-charge Diversion as of July 1, 2025
- Ongoing difficulty when developing municipal budgets that are presented at Town Meeting when State budget is not adopted until later in the spring
- Budget pressures in general – typical, recent 3% increases from State do not cover municipalities' increased costs
- Desire to ensure restorative processes happen locally and that connections with municipalities, including law enforcement, are maintained
- Concerns about job loss
- Different views about the value of centralization
- Agreement to work on a centralized intake process

AGO Considerations

- Act 180 - see document with excerpts from the legislation
- Streamline the administration and provision of juvenile and adult pre-charge and post-charge diversion programs
- Work on program guidance to ensure uniform system across the state
- Data collection - existing case management system that includes confidential post-charge Diversion records
- AGO staffing limitations
- Plan due to the Legislature April 1, 2025

Funding

- AGO will advocate with Administration and Legislature for funding for pre-charge Diversion.
- AGO intends to continue with same providers in Chittenden County for FY 2026.
- Grant awards cannot be set until more is known during the legislative session.

Future Planning re Streamlining

- Common intake process - a natural first step to further goals of both delivery and administration streamlining
- Program guidance on a statewide level in alignment with Vermont law and post-Diversion policies and practices.

Act 180 Excerpts

This document is not a comprehensive summary of [Act 180](#); it highlights provisions relating to discussions around streamlining of pre-charge and post-charge Diversion administration and services.

- “Pre-charge diversion means a referral of an individual to a community-based restorative justice provider by a law enforcement officer or prosecutor after the referring officer or prosecutor has determined that probable cause exists that the individual has committed a criminal offense and before the individual is criminally charged with the offense or before a petition is filed in family court for the offense. Pre-charge diversion shall not be construed to include a community referral.”
- AGO directed to
 - o develop and administer a juvenile and adult court diversion program for both pre-charge and post-charge referrals. Pre-charge programs shall operate only to the extent funds are appropriated,
 - o develop a policies and procedures manual to promote a uniform system across the State and develop program outcomes, in consultation with providers and others named in the law,
 - o report on referral numbers, demographic details, offenses charged and crime types, successful completion rates and possible causes of geographical disparities, and
 - o “Beginning on July 1, 2025, support the operation of diversion programs in each of the State’s counties through grants of financial assistance to, or contracts for services with, a single municipality or organization to provide community-based restorative justice programs and services in each county. Upon approval of the Attorney General, the single municipality or organization receiving a grant pursuant to this section may issue subgrants to diversion providers or execute subcontracts for diversion services.”
- Each county’s State’s Attorney shall adopt a juvenile and adult pre-charge diversion referral policy to include eligibility criteria, appropriate accompanying documentation, procedure for returning a case to law enforcement or the prosecutor.
- Existing law regarding post-charge Diversion includes requirement for each State’s Attorney to develop criteria for post-charge, confidentiality provisions.
- Codification of victim rights including timely notification of referral and information that is shared with victims.
- Fees may be charged for adults referred to pre-charge and post-charge Diversion. Fees collected used solely for purpose of the adult court diversion program.
- Public records of pre-charge Diversion are to be deleted two years after successful completion. “Records maintained on the Valcour database or other similar nonpublic databases maintained by a law enforcement agency, a State’s Attorney’s office, or the Department of State’s Attorneys and Sheriffs shall be exempt from deletion and shall only be used for criminal justice purposes.”

Sec. 7. COMMUNITY JUSTICE UNIT; DIVERSION PROGRAM ADMINISTRATION PLAN; REPORT

In counties where there is more than one pre-charge and post-charge diversion provider, the Community Justice Unit of the Office of the Attorney General shall collaborate with each county’s juvenile and adult pre-charge and post-charge providers and each county’s State’s Attorney or designee to develop a plan to streamline the administration and provision of juvenile and adult pre-charge and post-charge diversion programs on or before April 1, 2025. The Community Justice Unit shall report on such plan to the Senate and House Committees on Judiciary on or before April 1, 2025.

Sec. 8. OFFICE OF THE ATTORNEY GENERAL; PRE-CHARGE DIVERSION PROVIDERS; GRANTS

Notwithstanding 3 V.S.A. §§ 163(b)(1) and 164(b)(1), in counties where there is more than one pre-charge or post-charge diversion provider, the Attorney General may offer to grant or contract directly with all pre-charge providers in that county or provide for subgranting or subcontracting by the current post-charge provider in that county.

Sec. 9a. VERMONT SENTENCING COMMISSION; PRE-CHARGE DIVERSION RECORD RETENTION; REPORT

On or before November 15, 2024, the Vermont Sentencing Commission shall submit a written report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary reviewing current precharge diversion record retention practices within law enforcement agencies and State’s Attorneys’ offices.