

Deferred Sentencing Program of the United States District Court for the District of Rhode Island

The United States District Court for the District of Rhode Island has established a Deferred Sentencing Program (the “Program”). The Program is designed to offer an alternative to traditional conviction, sentencing, and incarceration by providing eligible defendants with a framework of supervision and services in lieu of incarceration to help them make informed decisions, engage in positive behavior, and reduce the risk of recidivism.

Participation in the Deferred Sentencing Program is at the discretion of the presiding judge. The Court will place defendants in the program on a case-by-case basis after a careful analysis to determine suitability for the program.

The Court has intentionally left the eligibility criteria flexible. There are no absolute requirements for entry into the Program. The typical candidate, however, will possess the following qualities: little or no prior criminal history; supportive family, strong community connections, or other positive influences; and motivated to effect change in his or her life.

The Court will adhere to the following process in deciding whether a defendant will be accepted into the Program:

- After a defendant enters a guilty plea, U.S. Probation (“Probation”) prepares and files the First Disclosure of the Presentence Investigation Report (PSR).
- Within 14 days of the First Disclosure of the PSR filing, counsel for the defendant or the government may request that the presiding judge consider a defendant for the Program. This request shall be set forth in a letter to the presiding judge, with a copy of the letter provided to the other party and Probation. Any objection to the First Disclosure of the PSR should be filed concurrently with this request, unless counsel has received leave for an extension from the Court. Submitting a request for consideration in the Program does not, in itself, toll time to respond to the First Disclosure.

- While preparing the First Disclosure of the PSR, Probation will also look at each defendant to determine whether he or she is a good candidate for the Program. In appropriate cases, Probation will submit a confidential memorandum to the presiding judge recommending a defendant for the Program. The parties will be informed if such a recommendation is made.
- After receiving a request or recommendation that the Court consider a defendant for the Deferred Sentencing Program, the presiding judge shall schedule a chambers conference. The government, counsel for the defendant, and Probation will be invited to the conference. At the conference, the parties and Probation will have the opportunity to advocate for or against the defendant's acceptance into the program and to provide the presiding judge with any and all information they deem relevant to the Court's decision.
- After the conference, the presiding judge will schedule a hearing to meet with the defendant, with all counsel and Probation present, to discuss the parameters of the Program and his or her motivation to participate.
- The Court may confer with the parties and Probation, and hear directly from the defendant, before accepting a defendant into the Deferred Sentencing Program. The Court may deny a defendant at any point in this process.
- If the presiding judge chooses to accept the defendant, a deferred sentencing hearing will be scheduled as soon as practicable. At this hearing, the Court shall begin the sentencing hearing; however, rather than sentencing the defendant, the Court will establish the Sentencing Guidelines range and thereafter continue the sentencing hearing for a specified period (the duration of the defendant's time in the program, typically one year).
- If a request or recommendation for a defendant to participate in the Deferred Sentencing Program is denied or not adopted, the Court will notify the parties orally or in writing as soon as practicable. U.S. Probation will then consider any objections to the First Disclosure of the PSR in the normal course and file the Final Disclosure of the PSR. Sentencing will take place in the normal course.

- The above process is advisory. At any time before a defendant is sentenced, the presiding judge also may choose, sua sponte, to consider a defendant for the Program. Regardless of the timing, however, both parties and Probation will be afforded the opportunity to provide information to the presiding judge, as well as to advocate for or against inclusion in the Program.

The presiding judge may accept a defendant into the Deferred Sentencing Program for a period ranging from six months to two years. Sentencing is postponed until successful completion of the program or such time as a defendant demonstrates an inability or unwillingness to complete the program.

During this period, a team of individuals consisting of the presiding judges, prosecutor, defense counsel, and probation officers will participate in monthly meetings with the program participants to monitor conduct and to provide direction, advice, and counseling. Generally, the defendant will begin the Program on home confinement and with a GPS tracking device. As a defendant demonstrates compliance with the conditions of release, the Court will lift restrictions. The Court may impose sanctions for failure to comply with the conditions of release. The defendant will also meet with his or her probation officer on a weekly basis. This collaborative process of supervision provides a greater level of support and understanding of the personal factors that affect a particular defendant. Upon successful completion of the Deferred Sentencing Program, the presiding judge will impose a reduced, typically non-custodial, sentence.