



Diversion

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Overview

- Diversion in Other States
- Diversion in Virginia
- Benefits and Challenges of Diversion
- Research on Diversion
- Diversion Points



What is diversion?

- Diversion is a broad term with various definitions.
- For purposes of this study, staff focused on diversion as an initiative or process (formal or informal) that allows an adult defendant to avoid a criminal charge and/or conviction by participating in or completing certain programs or conditions.



What is the purpose of diversion?

- Diversion can be used to address the root causes of crime by focusing on treatment, prevention, and rehabilitation in the criminal justice system.
- Diversion can serve a wide variety of unmet needs, such as substance abuse, mental or behavioral health, domestic violence, employment, and housing.



What needs can diversion address?

- Diversion in the criminal justice system intersects with numerous other societal challenges, such as:
 - Education
 - Health (mental and physical)
 - Housing
 - Poverty
 - Racial inequities
 - Trauma
 - Unemployment



Diversion in Other States

- All 50 states have implemented some form of diversion:
 - The majority of states have both statewide diversion statutes and locality-specific diversion programs.
 - Each state tailors diversion to meet the needs of its population or of specific populations within the state.



Diversion in Virginia

- Virginia currently has a variety of diversion programs.
 - Statewide statutory diversion
 - Locality-specific diversion programs

- Expanding the availability of diversion programs in Virginia does not require additional statutes.



Diversion in Virginia

- Expanding diversion in Virginia requires:
 - Resources for prevention and treatment
 - Communication and collaboration amongst stakeholders across multiple disciplines
 - Infrastructure for programs and supervision
 - Hiring and training staff and providers
 - Ongoing commitment to provide resources



Benefits and Challenges of Diversion

Benefits

- Offender rehabilitation
- Reduce recidivism
- Avoid collateral consequences of a criminal record
- Preserve the resources of the criminal justice system

Challenges

- Lack of program resources
- Limited availability
- Availability of legal counsel prior to entering a diversion program
- Burdensome program requirements for participants

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Research on Diversion

- Diversion programs vary widely by:
 - Populations served
 - Localities served
 - Admission criteria
 - Eligible offenses
 - Availability of resources
- Effectiveness of diversion programs vary by:
 - Individual programs
 - Populations served

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Diversion Points

- Numerous opportunities for diversion exist across Virginia's criminal justice system:
 - Pre-Law Enforcement Encounter
 - Pre-Arrest
 - Pre-Charge
 - Post-Charge



Diversion Points

- Pre-Law Enforcement Encounter:
 - Individuals receive support and treatment within the community prior to any contact with the criminal justice system.
 - Difficult to measure effectiveness because the number of individuals diverted from the criminal justice system cannot be determined.



Diversion Points

➤ Pre-Arrest Diversion:

- Instructs or empowers law enforcement officers to divert individuals into treatment for behavioral needs in lieu of arrest under certain circumstances.
- Involves partnerships between local law enforcement agencies and mental health and substance abuse providers and advocates.



Diversion Points

➤ Pre-Charge Diversion:

- Two stages of prosecutor-led interventions:
 - Pre-filing: prosecutor does not file charges if the individual completes the diversion program.
 - Post-filing: case is filed with the court and the normal adjudication process is suspended by the prosecutor while the individual participates in a diversion program.



Diversion Points

- Post-Charge Diversion:
 - Occurs at the court level and includes both deferred adjudication and specialty dockets.
 - Programs are driven by therapeutic and rehabilitative objectives.
 - Specialized team approach to provide services to participants.



Summary of Findings

- Diversion is part of a broader philosophical shift to prevention, treatment, and rehabilitation across various points in the criminal justice system.
- Expanding diversion requires additional and ongoing resources for treatment, supervision, and workforce needs across Virginia.



Discussion