

# CONNECTICUT SENTENCING COMMISSION

## Spring 2024 Yale Law School Mental Health Justice Clinic (MHJC) Memorandum

**To:** Mental Health Subcommittee, Connecticut Sentencing Commission  
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**Subject:** Intellectual Disability & the Criminal Justice System: Screening and Diversion

**Date:** April 29, 2024

### INTRODUCTION

This memo surveys the available research about screening practices and diversionary programs for individuals with intellectual disabilities (ID) within the criminal justice system. Alongside an annotated bibliography, this memo synthesizes our research and presents recommendations for further research. This research was conducted to support the Connecticut Sentencing Commission's statutory directive, which mandated that:

“[t]he Connecticut Sentencing Commission, established pursuant to section 54-300 of the general statutes, shall study the experience of persons with an intellectual disability or other developmental disabilities, including, but not limited to, autism spectrum disorder, who are involved in the criminal justice system.

Such study shall include, but need not be limited to,

- (1) rates of incarceration of such persons compared to the overall population of such persons in the state,
- (2) the advisability of behavioral assessments of such persons before sentencing and costs of such assessments, and
- (3) best practices of other states concerning such persons.”<sup>1</sup>

Although the statutory directive encompasses developmental disabilities generally, our research focused specifically on the experience of justice-involved individuals with ID.

In particular, the statutory directive includes a requirement to study best practices found in other states concerning this population within the criminal justice system. As Connecticut seeks to update its own practices, understanding the existing models that other states have

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<sup>1</sup> Public Act 23-137 § 15, 2023 General Assembly, 2023 Sess. (Conn. 2023).  
<https://www.cga.ct.gov/2023/act/pa/pdf/2023PA-00137-R00HB-05001-PA.pdf>

adopted for screening processes, diversionary programs, and other initiatives will be helpful as the Commission considers recommending procedures.

The studies surveyed suggest that individuals with ID can be uniquely disadvantaged at every step of the criminal justice system.<sup>2</sup> For example, individuals with intellectual or other developmental disabilities may display behavior that is viewed as “abnormal” or perceived as threatening, leading to arrests. They may struggle with abstract thinking which could limit an inability to understand or knowingly waive their legal rights. Additionally, rigid court and prison settings with strict rules may lead to infractions if an individual doesn’t understand or can’t remember the rules, creating cycles of recidivism.<sup>3</sup> As such, it is important to research ways of screening for individuals with ID and to consider diverting them from carceral settings.

## 1. Intellectual Disability Defined

The Connecticut General Statutes define “intellectual disability” as having three prongs.<sup>4</sup> First, a person must have a significant limitation in intellectual functioning defined as an Intelligence Quotient (IQ) two standard deviations or more below the mean, i.e. an IQ score of 70 or below. Second, a person must have deficits in adaptive behaviors, generally defined as that person’s ability to achieve personal independence and succeed in self care. Third, the deficits must have onset before the individual was eighteen years old.<sup>5</sup>

The Connecticut statute defines intellectual disability similarly to the American Psychiatric Association,<sup>6</sup> which uses three similar prongs, but Connecticut is more concrete in how certain aspects of ID are measured. This difference may lead to fewer people within Connecticut being identified as having intellectual disabilities than would be identified by the medical community generally. For example, the clinical definitions do not give specific age or intelligence quotient cut-offs as a part of their definition. Our glossary, attached as Appendix A,

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<sup>2</sup> See, e.g., *Criminal Justice System - Joint Position Statement of AAIDD and The Arc*. American Association on Intellectual and Developmental Disabilities (2014). <https://www.aaid.org/news-policy/policy/position-statements/criminal-justice>; Davis, L. A. (2009, August). *People with Intellectual Disabilities in the Criminal Justice Systems: Victims & Suspects*. The Arc. <https://thearc.org/wp-content/uploads/forchapters/Criminal%20Justice%20System.pdf>

<sup>3</sup> Id.

<sup>4</sup> Connecticut General Statutes § 1-1g(a)-(b) (“a significant limitation in intellectual functioning existing concurrently with deficits in adaptive behavior that originated during the developmental period before eighteen years of age ... ‘significant limitation in intellectual functioning’ means an intelligence quotient more than two standard deviations below the mean as measured by tests of general intellectual functioning that are individualized, standardized and clinically and culturally appropriate to the individual; and ‘adaptive behavior’ means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for the individual’s age and cultural group as measured by tests that are individualized, standardized and clinically and culturally appropriate to the individual”).

<sup>5</sup> Id.

<sup>6</sup> American Psychiatric Association. (2022). Neurodevelopmental disorders. *Diagnostic and Statistical Manual of Mental Disorders*. [https://doi.org/10.1176/appi.books.9780890425787.x01\\_neurodevelopmental\\_disorders](https://doi.org/10.1176/appi.books.9780890425787.x01_neurodevelopmental_disorders)

compiles many additional definitions of terms relevant to contextualizing our research. In it, please find definitions for terms relevant to our findings including diversion, IQ, habilitation, etc.

## **RESEARCH**

This section divides the research we conducted into two topics: (1) screening tests available within the criminal justice system for identifying individuals with ID and (2) diversion programs that exist nationwide for justice-involved individuals with ID. Each sub-section details the methods used for conducting this research and summaries of key points found. All research was conducted between January and April 2024 and is up to date as of the date of this memo.

### **1. Screening**

#### **a. Research Methods**

We researched best practices in screening methods by reviewing recent academic articles on the topic. First, literature reviews were considered. “Screening prisoners for Cognitive Impairment – Literature Review” by Catalano et al. (2020) was the most valuable and recent review of available scholarship that we uncovered in our research.<sup>7</sup> This literature review analyzed the findings of hundreds of research papers to identify the most evidence-supported methods for identifying prisoners with cognitive impairment, with the goal of determining which had ID. Cognitive impairment can be a manifestation of both ID and other conditions.

Second, we conducted additional research into the screening methods highlighted by those literature reviews. Examples of screening practices in all U.S. states were not exhaustively pursued; instead, only the states whose practices have been the subject of academic or advocacy-based reports are featured below. We found these reports through database scholarship research, primarily Google Scholar. We found some papers on screening methodology from outside the United States, primarily Australia and the United Kingdom. An overview of the findings from these reports is presented below, with one caveat: the English and Australian contexts may not always be analogous to the American criminal justice context. For instance, differences in demography and the operation of the criminal justice system overall mean that findings in the United Kingdom or Australia might not be directly applicable in the United States.

#### **b. Summary of Findings**

Our research yielded two categories of findings. First, we found research on which ID screening protocols have both widespread adoption among clinicians and proven use within the criminal-justice context. Second, we searched for literature on ID screening protocols used

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<sup>7</sup> Catalano, G., Mason, J., Brolan, C. E., Loughnan, S., & Harley, D. (2020). Screening prisoners for Cognitive Impairment – Literature Review. *Journal of Intellectual Disabilities and Offending Behaviour*, 11(4), 201–210. <https://doi.org/10.1108/jidob-01-2020-0001>.

across the United States. We found studies discussing screening protocols employed in correctional systems in four states. We were unable to locate information about screening for intellectual or other developmental disabilities in correctional systems in any other states. The studies we did find generally described screening systems that do not comport with the evidence-based methodologies we researched.

### **i. Screening Methodologies**

The studies reviewed suggest that many of the most evidence-based screening methods have been developed and tested in Australia and the United Kingdom. So far, there is good evidence for these tools' efficacy in the U.S. context. The two screening methods that were most promoted in the literature were the Hayes Ability Screening Index (HASI) and the Learning Disability Screening Questionnaire (LDSQ). In addition to these two screening tools, Catalano, et al. recommended the Adaptive Functioning Assessment Tool (AFAT). For screening of traumatic brain injury, they recommend using the Ohio State University Traumatic Brain Injury Identification Method (OSU-TBI-ID).<sup>8</sup>

The HASI was specifically developed to test for ID in the incarcerated population. The HASI is designed to be administered by non-psychologists and to identify people who may be candidates for further testing. It is overinclusive and may identify people with psychiatric disorders, substance abuse issues, or even those with limited English skills. The HASI was developed through testing in incarcerated or justice-involved populations. It was found to have predictive validity for cognitive disability when compared against full-scale intelligence and adaptive abilities tests. It includes questions about respondents' backgrounds (e.g., if they ever received special education services) and several exercises designed to rapidly test a person's cognitive abilities.<sup>9</sup>

The LDSQ screening tool was designed by clinicians in the United Kingdom. It is comprised of performance-based tasks that assess respondents' ability to read, write, and tell time. It also includes questions related to educational and employment history, living situation, and contact with ID services. Thus, it is similar in content to the HASI. The LDSQ can be administered by those without specialized training (such as law enforcement and correctional

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<sup>8</sup> Id.

<sup>9</sup> Hayes, S. C. (2002). Early Intervention or Early Incarceration? Using a Screening Test for Intellectual Disability in the Criminal Justice System. *Journal of Applied Research in Intellectual Disabilities*, 15(2), 120–128. <https://doi.org/10.1046/j.1468-3148.2002.00113.x>

personnel).<sup>10</sup> The LDSQ has been validated against full-scale intelligence tests, and specifically validated in forensic (i.e. criminal justice) contexts.<sup>11</sup>

## ii. Studies of Screening Practices in the United States

We found reports about ID screening processes in criminal justice systems in North Carolina, Pennsylvania, Washington, and New York.

In North Carolina, researchers published a report called “Are We There Yet? Screening Processes for Intellectual and Developmental Disabilities in Jail Settings.”<sup>12</sup> The research team conducted phone interviews surveying administrative professionals in North Carolina jails. The administrators were asked about their knowledge of the prevalence of and screening for persons with ID in their facilities. The survey found that “[n]early 70% of respondents felt that 1% or fewer of their total inmate populations had disabilities, and although exact rates of intellectual and developmental disabilities in the North Carolina’s jails have not been measured, the literature suggests that an estimate of under 1% is low.”<sup>13</sup> Moreover, the screening procedures that the administrators reported using were not uniform, and only 53% of respondents said they screened for intellectual and developmental disabilities at all, with 11% reporting use of either a formal written process or an intake sheet. The remaining administrators reported informal screening.

In the Pennsylvania study, titled “A Survey of Existing Program Strategies for Offenders with Intellectual and Developmental Disabilities Under Correctional Supervision in Pennsylvania,” researchers found that many jail and parole office administrators were unaware of how many individuals with ID they served.<sup>14</sup> The study additionally found a lack of uniformity in screening procedures. For example, only 37% of county jails had a screening instrument in place. Even among this minority, most did not screen inmates in all cases. The authors of the Pennsylvania study found that both county jail wardens and county parole/probation directors were largely unaware of the number of intellectually disabled individuals they oversaw at any given time.

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<sup>10</sup> Wijetunga, C. (2020). Evaluating Intellectual Disability Screening in a Correctional Setting (Order No. 27995585), 51, Available from ProQuest Dissertations & Theses Global; *ProQuest Dissertations & Theses Global Closed Collection*. (2462421937). <https://www.proquest.com/dissertations-theses/evaluating-intellectual-disability-screening/docview/2462421937/se-2>

<sup>11</sup> McKenzie, K., Sharples, P., & Murray, A.L. (2015) Validating the Learning Disability Screening Questionnaire against the WAIS IV. *Intellectual and Developmental Disabilities*, 53(4), 301-307.

<sup>12</sup> Scheyett, A., Vaughn, J., Taylor, M., & Parish, S. (2009). Are We There Yet? Screening Processes for Intellectual and Developmental Disabilities in Jail Settings. *Intellectual and Developmental Disabilities*, 47(1).

<sup>13</sup> Id., 10.

<sup>14</sup> Hutchison, M., Hummer, D., & Wooditch, A. (2013). A Survey of Existing Program Strategies for Offenders with Intellectual and Developmental Disabilities Under Correctional Supervision in Pennsylvania. *Probation Journal*, 60(1), 56–72. <https://doi.org/10.1177/0264550512470189>

As of 2020, according to “Evaluating Intellectual Disability Screening in a Correctional Setting,” New York State appears to screen all prisoners on Rikers Island for intellectual disability, but their questionnaires have been shown to lack validity, to be based only on an individual’s background, and not to include any cognitive testing.<sup>15</sup> The study found that the Rikers Island screening only asked if inmates had previously received state benefits for intellectual disability or special education services. The study found that this method of screening would exclude people who were not first identified in other state systems as having an ID. By contrast, the Catalano et. al. literature review suggests that most evidence-based screenings would also include a brief set of cognitive tests (e.g., puzzles) to roughly assess the likelihood that the person screened has an ID.

In Washington, a non-profit group, Disability Rights, commissioned a study whose findings can perhaps help to explain the lack of uniformity found in other states. “On many occasions, Disability Rights Washington staff were told that custody staff could just ‘tell’ if someone had a disability.”<sup>16</sup> This sentiment suggests a common misunderstanding of ID among correctional officers and likely among the population at large. Many intellectually disabled people may successfully “mask” their disability, meaning that they compensate for their disability in a way that conceals it to a casual observer.<sup>17</sup> Thus, many people with an ID, especially those whose functioning is not outwardly unusual, are not noticed by staff as having a developmental disability. A belief by staff that disability will always be readily apparent may mean that many intellectually disabled individuals will not be considered for the accommodations they need. This finding in Washington underscores the need for effective screening tools. Screening tools strive for uniformity and objectivity, based on clinical psychology, not just what the lay person can “tell.”

## 2. Diversion Programs

Diversion programs are programs that offer alternatives to arrest, conviction, and incarceration. By connecting eligible individuals with resources like substance use treatment, therapy, employment, housing, and other community-based connections, diversion programs aim

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<sup>15</sup> Wijetunga, C. (2020). Evaluating Intellectual Disability Screening in a Correctional Setting (Order No. 27995585). Available from ProQuest Dissertations & Theses Global; *ProQuest Dissertations & Theses Global Closed Collection*. (2462421937). <https://www.proquest.com/dissertations-theses/evaluating-intellectual-disability-screening/docview/2462421937/se-2>

<sup>16</sup> Apsbaga, M. (2016). (publication). *You Can’t Just “Tell”*: Why Washington Jails Must Screen for Mental Illness and Cognitive Disabilities. Disability Rights Washington. Retrieved February 5, 2024, from <https://disabilityrightswa.org/reports/cant-just-tell/>.

<sup>17</sup> Katie Kronick, *Left Behind, Again: Intellectual Disability and the Resentencing Movement*, 101 N.C. L. REV. 959, 979-980.



to hold defendants accountable for their criminal conduct, while still connecting them to treatment and rehabilitation services and preserving court resources.<sup>18</sup>

### a. Research Methods

To research diversion programs for people with intellectual disabilities, we surveyed existing programs across the United States. This research was conducted exclusively through online searches. First, general searches for “diversion program” + “intellectual disabilities” and “diversion program” + “developmental disabilities” were conducted on Google. A few generalized websites and articles were found. However, we quickly realized that the existing programs were very state- and county-dependent. Therefore, most of the research consisted of searching for any diversion program that existed in each state. These searches were similarly conducted with search terms: [state] + “intellectual disability” + “diversion program” or [state] + “developmental disability” + “diversion program.”

### b. Summary of Findings<sup>19</sup>

Using the above research techniques, we located approximately **21 states** that have at least one existing diversionary program for justice-involved individuals with intellectual disabilities (ID). The located programs are summarized in Appendix B. The majority of these existing programs are at the county-level, though at least two states have statewide initiatives for diversion programs. For example, California has had a statute permitting diversion programs for individuals with cognitive development disabilities since 1980, and Colorado passed an Act in March 2024 to allow diversion programs for juveniles with ID.<sup>20</sup> Additionally, New York and Massachusetts have legislation pending for the development of diversion programs.<sup>21</sup>

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<sup>18</sup> United States Department of Justice. (2023, February). *Pretrial Diversion Program*. Justice Manual | 9-22.000 - Pretrial Diversion Program. <https://www.justice.gov/jm/jm-9-22000-pretrial-diversion-program>

<sup>19</sup> For a helpful webinar on the topic of diversion programs for individuals in this population, see Assey, D. et al. (2020, Oct 29). *Diverting People with Intellectual and Developmental Disabilities from the Criminal Justice System* [Webinar]. The Counsel of State Governments and the Bureau of Justice Assistance. <https://csgjusticecenter.org/events/diverting-people-with-intellectual-and-developmental-disabilities-from-the-criminal-justice-system/>.

<sup>20</sup> See Cal. Pen. Code § 1001.20-1001.34, Diversion of Defendants with Cognitive Developmental Disabilities (Cal. 2020). <https://casetext.com/statute/california-codes/california-penal-code/part-2-of-criminal-procedure/title-6-pleadings-and-proceedings-before-trial/chapter-28-diversion-of-defendants-with-cognitive-developmental-disabilities>; SB24-006, 74th General Assembly, 2nd Regular Session (Col. 2024). <https://leg.colorado.gov/bills/sb24-006#:~:text=The%20bill%20requires%20a%20district,or%20a%20lack%20of%20mental>.

<sup>21</sup> See S2881B, NY State Senate, 2021-2022 Regular Session. An Act to Amend the Criminal Procedure Law and the Judiciary Law, in Relation to Judicial Diversion Programs; and to Repeal Certain Provisions of the Criminal Procedure Law Relating Thereto (NY 2021). [www.nysenate.gov/legislation/bills/2021/S2881](http://www.nysenate.gov/legislation/bills/2021/S2881); H.163, 193rd General Court of the Commonwealth of Massachusetts, An Act Establishing a Pilot Diversion Program for Individuals with Developmental and Intellectual Disabilities (Mass. 2023). <https://malegislature.gov/Bills/193/HD3389>.

The general types of programs located are county-level mental health courts, general diversion programs, statutory initiatives, youth-only diversion, and non-profit advocacy programs.<sup>22</sup>

**i. Most diversionary initiatives occur through mental health courts.**

Most of the diversion programs located are conducted through mental health courts. Though some mental health courts explicitly exclude defendants with ID from participating,<sup>23</sup> several programs explicitly define their program to include individuals with developmental or intellectual disabilities. Many mental health courts, however, do not explicitly define the diagnoses that would make an individual eligible for inclusion. As such, it is possible that many more mental health courts across the United States assist people with ID in practice without explicit indication that their programs are open to this population on their websites.

**ii. Eligibility is typically limited to individuals with minor, non-violent offenses.**

Most of the diversion programs limit eligibility in some way, often by the nature of the charged offense. The majority of the programs identified limit eligibility to defendants with misdemeanor or lower-level felony offenses.<sup>24</sup> However, some programs expand eligibility beyond non-violent offenses. For example, the California Penal Code prohibits diversion if charged offenses include sex offenses, murder, or voluntary manslaughter, but all other charges remain open to diversion.<sup>25</sup> Several programs also limit eligibility based on a defendant's criminal record. For instance, Sarpy County, Nebraska, disqualifies individuals from participating in mental health diversion if they have a violent criminal history or a criminal record dating back 15 years.<sup>26</sup>

**iii. Most programs are similarly structured, assigning defendants individualized treatment plans for completion within a year or two.**

Among the diversion programs surveyed, program length varies, lasting anywhere from six months to five years.<sup>27</sup> Most programs are approximately one year in length, with flexibility

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<sup>22</sup> While conducting this research, we came across non-diversionary initiatives for justice-involved individuals with ID. For brief summaries of those initiatives, see Appendix D.

<sup>23</sup> See, e.g., Official Site of Cache County, Utah. *Mental Health Court*. Cache County Attorney's Office. <https://www.cachecounty.gov/attorney/criminal-division/mental-health-court.html>

<sup>24</sup> See Appendix B for summaries of program eligibility based on charged offenses.

<sup>25</sup> However, the court can consider a defendant's violence or past criminal record in determining if diversion is appropriate. See Cal. Pen. Code § 1001.20-1001.34, Diversion of Defendants with Cognitive Developmental Disabilities (Cal. 2020). <https://casetext.com/statute/california-codes/california-penal-code/part-2-of-criminal-procedure/title-6-pleadings-and-proceedings-before-trial/chapter-28-diversion-of-defendants-with-cognitive-developmental-disabilities>.

<sup>26</sup> *Mental Health Diversion*. Sarpy County, Nebraska. <https://www.sarpy.gov/405/Mental-Health-Diversion>

<sup>27</sup> See Appendix B for each located program's length.



for the program to last more or less time. Some programs list a maximum time frame for participation. The general structure includes a flagged defendant's evaluation for intellectual or developmental disabilities, confirmation of eligibility, and creation of a treatment plan and timeline for the defendant. The treatment plan also includes either court attendance or requirements for routine court updates. Once a court confirms completion of the treatment plan, charges against a defendant are typically dropped entirely.

**iv. Most programs do not distinguish services offered for those with intellectual disabilities and those with other mental health conditions.**

Since most programs were offered through mental health courts that are open to defendants with a wide variety of presenting symptoms, the listed services are generally generic. For example, the Kane County, Illinois, Treatment Alternative Court process follows three phases for all defendants in the program: stabilization (housing, substance use treatment, etc.), life skill building (mental health treatment, dual diagnosis programming, etc.), and reintegration (incorporating education, employment, and volunteering).<sup>28</sup> There is no description of how these phases look for individuals with ID compared to individuals with other mental health conditions. Providers for these services are typically local partner organizations that specialize in mental health treatment. For example, the 10th Judicial Circuit in Florida clarifies that treatment through their Behavioral Health Court is often provided through referrals to community organizations.<sup>29</sup>

Programs geared only towards individuals with intellectual or other developmental disabilities provide more details about the services offered. For example, Maricopa County, Arizona, offers a felony diversion program specifically for individuals with developmental disabilities. Services offered through this program include individual therapy using Applied Behavioral Analysis principles, services through the Autism Center of Excellence, and other therapeutic approaches founded in behavior modification.<sup>30</sup>

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<sup>28</sup> See *Kane County Treatment Alternative Court Participant Handbook*. Kane County Treatment Alternative Court.

<http://courtservices.countyofkane.org/Documents/TAC%20Participant%20Handbook%202020.pdf>.

<sup>29</sup> State of Florida. *Behavioral Health Court Participant Handbook*. 10th Judicial Circuit Court. <https://www.jud10.flcourts.org/sites/default/files/docs/ProblemSolvingCourt/BHCHandbook.pdf>

<sup>30</sup> Maricopa County Attorney's Office (2021, November 10). *Developmental Disabilities – Felony Diversion Program (DD-FDP) Overview*. Maricopa County Attorney's Office. <https://www.maricopacountyattorney.org/DocumentCenter/View/2111/MCAO-DD-FDP-Diversion-Program-Handout---Public>.

**v. Other noted programming trends include youth-specific programs and non-profit advocacy in the courtroom.**

Colorado and Nevada have programs targeted exclusively to youth with intellectual or developmental disabilities.<sup>31</sup> Additionally, in New Jersey and North Dakota (states without identified county- or state-wide initiatives), non-profit organizations have strategies for connecting justice-involved individuals with ID to resources as an incarceration alternative.<sup>32</sup> Though courts in these states do not directly seek non-profit involvement, non-profits can create and provide individualized treatment plans for defendants, and judges can consider, on a case-by-case basis, whether diversion to community-based programming is appropriate.

**c. States without Diversion Programs**

As we conducted our searches, some states did not initially appear to have any diversion programs for individuals with ID. Though a list of these states is included in Appendix C, there are several caveats to this list. First, the research into these states was surface level. The states listed in Appendix C did not have websites describing existing diversion programs within approximately the first 50 search results. Deeper online searches may uncover existing programs. Second, though the term “diversion program” is fairly universal, some states may use other names for such initiatives. For example, Tulsa County, Oklahoma, offers “community sentencing” to individuals (including those with ID) facing certain criminal charges.<sup>33</sup> In practice, community sentencing seems to mirror diversion programs. Thus, some states may be naming initiatives in ways that fall outside our chosen search terms.

Finally, several states offered generalized diversion programs for defendants with particular charges or with mental illness. However, no program was included in our research unless the source for the program explicitly listed that defendants with intellectual and/or developmental disabilities were eligible. Therefore, some states may include these individuals in their wider diversion initiatives but don’t overtly tailor programs to these individuals. Similarly, some programs and states offer programs geared towards individuals with serious mental illnesses (like mental health courts), but “serious mental illness” is not consistently defined. Some of these programs may in practice include individuals with ID, but without explicit

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<sup>31</sup> SB24-006, 74th General Assembly, 2nd Regular Session (Col. 2024). [https://leg.colorado.gov/bills/sb24-006#:~:text=The%20bill%20requires%20a%20district,or%20a%20lack%20of%20mental;Eighth%20Judicial%20District%20Court%20Detention%20Alternative%20for%20Autistic%20Youth%20Court%20\(DAAY\).](https://leg.colorado.gov/bills/sb24-006#:~:text=The%20bill%20requires%20a%20district,or%20a%20lack%20of%20mental;Eighth%20Judicial%20District%20Court%20Detention%20Alternative%20for%20Autistic%20Youth%20Court%20(DAAY).) Clark County, Nevada. [http://www.clarkcountycourts.us/res/specialty-courts/DAAY\\_Flyer.pdf](http://www.clarkcountycourts.us/res/specialty-courts/DAAY_Flyer.pdf)

<sup>32</sup> *How the Criminal Justice Program Helps: Criminal Justice Advocacy Program*. The Arc of New Jersey. <https://www.arcnj.org/programs/criminal-justice-advocacy-program/how-we-help.html>; Protection & Advocacy Project (2022). *Individual Justice Planning: A tool to address justice involvement for people with disabilities*. Protection & Advocacy Project, North Dakota. <https://www.ndpanda.org/sites/www/files/documents/IJPManual.pdf>

<sup>33</sup> *Tulsa County Community Sentencing*. Tulsa County, Oklahoma, [www.tulsacounty.org/communitysentencing/](http://www.tulsacounty.org/communitysentencing/).

confirmation of inclusion, any of these broader serious mental illness initiatives were excluded from our research.

## RECOMMENDATIONS FOR FURTHER RESEARCH

This section outlines areas for further research into screening, diversion programs, or other general topics related to the experience of individuals with ID in the criminal justice system.

### 1. Screening

Our online research found very limited resources about the current Connecticut state practices for intellectual disability screening in the criminal justice system. For instance, we were unable to find current documents about the Connecticut Department of Correction (“DOC”) ID screening. The latest available public documents found on this topic were from UConn Health in 2016.<sup>34</sup> We were unable to locate DOC policy documents from after 2018, the year that DOC healthcare became managed by DOC itself. Further research into Connecticut DOC healthcare might take the form of creating a survey instrument and contacting DOC facilities to inquire how they conduct ID screening or reaching out to DOC management about their screening practices. This research would clarify our understanding of current DOC policy.

Further, ID screening can and should take place in settings other than correctional institutions. For instance, parole officers, prosecutors, defense counsel, etc., may have screening practices that they implement. Further research can be conducted into how these actors in the criminal justice system currently contribute (or not) to identifying individuals as having ID. While most of the state-specific screening studies we found focus on screening in a correctional context, there is no reason this should be the only context in which individuals are screened for ID. Thus, more information on how individuals are currently screened or could be screened earlier in their involvement with the criminal justice system would be valuable.

Additionally, there is an opportunity for future researchers to replicate the methodology we used in Diversion Programs research. In other words, systematically searching terms (e.g., “[State Name] + “Intellectual Disability” + Screen\*”) could generate a resource that compares state screening processes across the United States at different stages of the criminal justice system, as Appendix B does for diversion programs across the country.

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<sup>34</sup> See UConn Health Correctional Managed Health Care Policy And Procedures For Use Within The Connecticut Department Of Correction <https://health.uconn.edu/correctional/wp-content/uploads/sites/77/2016/12/E-Inmate-Care-and-Treatment.pdf> (Uploaded December 2016.)

## **2. Diversion Programs**

Research on relevant diversion programs can also be expanded. For example, Google searches can be completed for programs through expanded search terms. Including cognitive impairments, neurodevelopmental disabilities, or other terms could help identify other existing programs that use different terminology for the same population. Furthermore, some programs may offer services that, in practice, make them diversionary programs, but they may not call these initiatives diversion programs. Searching terms like “alternative to incarceration” or “community-based supervision” may offer more examples of relevant programs.

Similarly, since many mental health courts were found to include individuals with ID, it could be useful to search for mental health courts broadly and see if the offered services are either open to individuals with ID in practice or would be applicable to this population, despite intellectual disability not explicitly being included as a requisite for eligibility. Understanding the breadth of services available across different jurisdictions could be helpful for determining best practices or gathering ideas for treatment plans to incorporate in Connecticut.

Next steps could also include directly contacting various parties. For example, one could contact the existing identified programs to get a better sense of how these programs play out in practice. Several of our sources merely described the process of ordering an evaluation and putting together an individualized treatment plan; however, a sample case or treatment plan could be very helpful as Connecticut considers whether to adopt such programs. Sample community-based organizations would also be helpful as Connecticut considers who may provide diversion program services to participants. Furthermore, it could be helpful to contact larger counties in some of the states without locatable programs. Public defender offices or district attorneys’ offices in these counties may know more about treatment or programs that are offered to defendants with ID unofficially or programs that are simply not publicized online.

Finally, expanding searches to diversion programs open to other populations (like veterans) could be helpful for understanding non-treatment-based diversion plans. Programs without specific focuses could offer diversion ideas that are transferable to individuals with ID. Similarly, continuously diving into higher-level academic research on diversion programs for this population could be fruitful as this field continues to expand. Academic analyses may offer recommendations that existing programs haven’t yet implemented.

## **3. Other Suggested Research Topics**

One recommendation is to research other criminal justice initiatives across the United States specific to individuals with ID. Some initiatives were located during our research (see Appendix D), but these were found without intentionally searching for them. Locating other existing initiatives could be helpful as Connecticut considers how to incorporate new means of support for justice-involved individuals with ID.

We also recommend more research into prison-specific programs and services for incarcerated individuals across the United States. For instance, in cursory research, we found suggestion that some states offer special housing or other tailored services to intellectually disabled inmates. More information on such programs, if they exist, would shed further light on the experiences of individuals with ID in the correctional context.

Additionally, we recommend conducting stakeholder interviews. The research conducted to create this memo was undertaken almost exclusively via searching online resources. As this research project develops, speaking with relevant individuals in Connecticut will likely be the best way to develop information about the experiences of intellectually disabled individuals in the criminal justice system. As discussed in our screening research recommendations above, one group we recommend interviewing is DOC officials. Additionally, public defenders with intellectual disability experience, parole officers, disability rights advocates,<sup>35</sup> social workers with experience in transitional housing and a forensic population, and potentially employees with either the Department of Developmental Services or the Department of Mental Health and Addiction Services could be useful respondents for informational interviews.

Lastly, most of our findings in this memo focus on the experience or identification of individuals with ID relating to adjudication and incarceration. Yet, the experiences of individuals before, during, and shortly after being arrested are also important to study and document. A survey of any studies on the differential experiences of people with ID in encounters with the police would be helpful,<sup>36</sup> as would a survey of initiatives to protect or accommodate persons with ID or autism in Connecticut. For instance, in our research, we ran across Connecticut's Blue Envelope Program for drivers with autism.<sup>37</sup> More data on this program, others like it, and the feasibility of expanding a similar approach to individuals with ID are all topics for further study.

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<sup>35</sup> Our team had an informational call with Deborah Dorfman of Disability Rights CT, who also spoke to the Connecticut Sentencing Commission. Additional calls with her colleagues and others who work in the area would likely be helpful.

<sup>36</sup> Higher population prevalence of intellectual disability is associated with poverty. See Maulik PK, Mascarenhas MN, Mathers CD, Dua T, Saxena S. Prevalence of intellectual disability: A meta-analysis of population-based studies. *Research in Developmental Disabilities*. 2011;32(2):419–436.

Impoverished communities in the United States face myriad challenges accessing healthcare support, ranging from maternal healthcare services to mental health treatment. These same communities, often communities of color, are often overpoliced. Thus, in addition to the specific difficulties with law enforcement noted in the Introduction, Connecticut residents with intellectual disabilities may have had negative experiences with the police due to their membership in impoverished or overpoliced groups.

<sup>37</sup> *The Blue Envelope*. Autism Awareness, Connecticut's Official State Website. <https://portal.ct.gov/dmv-blue-envelope>

## APPENDIX A

### Glossary of Relevant Terms

The following glossary provides the current clinical definitions of some key terms related to intellectual disability. Definitions of intellectual disability are especially important to specify given how interchangeably certain terms are used, e.g. developmental and intellectual disability. In some instances, the definitions below will be different than those used in statute by Connecticut or by other states/entities. This glossary primarily uses clinical definitions, such as those found in the Diagnostic and Statistical Manual (DSM-5), considered the primary source for the current clinical definitions and criteria for diagnosing psychiatric conditions.

**Adaptive functioning** – According to the DSM-5, “adaptive functioning ... refer[s] to how well a person meets community standards of personal independence and social responsibility, in comparison to others of similar age and sociocultural background. Adaptive functioning involves adaptive reasoning in three domains: conceptual, social, and practical.”<sup>38</sup> In short, the conceptual domain involves most typical academic tasks such as language and math skills, judgment, and problem-solving skills. The social domain encompasses interpersonal skills, and the practical domain includes self-management in domains such as personal care.

**Autism** – This is a neurodevelopmental disorder, now referred to in the DSM-5 as Autism Spectrum Disorder (ASD). The DSM-5 states that “[t]he essential features of autism spectrum disorder are persistent impairment in reciprocal social communication and social interaction (Criterion A), and restricted, repetitive patterns of behavior, interests, or activities (Criterion B). These symptoms are present from early childhood and limit or impair everyday functioning (Criteria C and D).”<sup>39</sup> Individuals with ASD may sometimes also have intellectual disability, but ASD varies widely in all aspects of its presentation.

**Diversion** – This refers to the pretrial process of redirecting a criminal defendant away from the traditional criminal justice system. Diversion programs vary, but they typically include diverting a defendant to an alternative system of supervision or community resources. Upon completion of a program, a court could determine the appropriate case outcome for the defendant, often dismissal. The goals of diversion are to hold defendants accountable for their criminal conduct, while connecting them to treatment and rehabilitation services and preserving court resources. Jurisdictions approach diversion programs very differently.<sup>40</sup>

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<sup>38</sup> American Psychiatric Association. (2022). Neurodevelopmental disorders. *Diagnostic and Statistical Manual of Mental Disorders*. (internal citations omitted).

[https://doi.org/10.1176/appi.books.9780890425787.x01\\_neurodevelopmental\\_disorders](https://doi.org/10.1176/appi.books.9780890425787.x01_neurodevelopmental_disorders)

<sup>39</sup> *Id.*

<sup>40</sup> United States Department of Justice. (2023, February). 9-22.000 - Pretrial Diversion Program. Justice Manual | 9-22.000 - Pretrial Diversion Program. <https://www.justice.gov/jm/jm-9-22000-pretrial-diversion-program>



**Habilitation** – This refers to the development and acquisition of skills, especially in individuals with neurodevelopmental disabilities or with special education needs. In contrast, rehabilitation is typically a means of supporting the re-acquisition of skills where a previously typically developing, independent individual has experienced an impairment or injury.<sup>41</sup>

**Hayes Ability Screening Index (HASI)** – HASI is a screening test, not a diagnostic test for intellectual disability. It is designed to be administered by non-psychologists (including law enforcement and correctional personnel) in 5 -10 minutes. It is an individually administered assessment, that has significant correlation with standardized cognition and adaptive behavior. The final score indicates whether to refer or not refer. The HASI was developed in Australia but has been used in the United States and other countries.<sup>42</sup>

**Intellectual disability (ID)** – Intellectual disability is also called intellectual developmental disorder. According to the DSM-5, “[i]ntellectual developmental disorder is characterized by deficits in general mental abilities, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience. The deficits result in impairments of adaptive functioning, such that the individual fails to meet standards of personal independence and social responsibility in one or more aspects of daily life, including communication, social participation, academic or occupational functioning, and personal independence at home or in community settings.”<sup>43</sup> The three diagnostic criteria are (1) deficits in general mental ability (usually measured by IQ test), (2) impairment in adaptive functioning, and (3) onset during the developmental period.

Note: In the Connecticut General Statutes, ID is defined as “a significant limitation in intellectual functioning existing concurrently with deficits in adaptive behavior that originated during the developmental period before eighteen years of age... ‘significant limitation in intellectual functioning’ means an intelligence quotient more than two standard deviations below the mean as measured by tests of general intellectual functioning that are individualized, standardized and clinically and culturally appropriate to the individual; and ‘adaptive behavior’ means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for the individual’s age and cultural group as measured by tests that are individualized, standardized and clinically and culturally appropriate to the individual.”<sup>44</sup> This definition

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<sup>41</sup> Hayton, J., & Dimitriou, D. (2019). What’s in a Word? Distinguishing between Habilitation and Rehabilitation. *International Journal of Orientation & Mobility*, 10(1), 1–4. <https://doi.org/10.21307/ijom-2019-007>

<sup>42</sup> Hayes, S. C. (2002). Early Intervention or Early Incarceration? Using a Screening Test for Intellectual Disability in the Criminal Justice System. *Journal of Applied Research in Intellectual Disabilities*, 15(2), 120–128. <https://doi.org/10.1046/j.1468-3148.2002.00113.x>

<sup>43</sup> American Psychiatric Association. (2022). Neurodevelopmental disorders. *Diagnostic and Statistical Manual of Mental Disorders*. [https://doi.org/10.1176/appi.books.9780890425787.x01\\_neurodevelopmental\\_disorders](https://doi.org/10.1176/appi.books.9780890425787.x01_neurodevelopmental_disorders)

<sup>44</sup> Connecticut General Statutes § 1-1g(a)-(b).

is similar to the DSM-5, but it is more concrete in how certain aspects of ID is measured— IQ must be below two standard deviations (generally a score of 70), and the developmental period ends at eighteen.

**IQ** (intelligence quotient) – The American Psychological Association defines IQ as “a standard measure of an individual’s intelligence level based on psychological tests. In the early years of intelligence testing, IQ was calculated by dividing the mental age by the chronological age and multiplying by 100 to produce a ratio IQ. This concept has now mostly been replaced by the deviation IQ, computed as a function of the discrepancy of an individual score from the mean (or average) score. The mean IQ is customarily 100, with slightly more than two thirds of all scores falling within plus or minus 15 points of the mean (usually one standard deviation). More than 95% of all scores fall between 70 (two standard deviations below the mean) and 130 (two standard deviations above the mean).” IQ testing is used in diagnosing an intellectual disability.<sup>45</sup>

**Learning Disability Screening Questionnaire (LDSQ)** – LDSQ is a screening test, not a diagnostic test for intellectual disability. This tool is comprised of performance-based tasks that assess the ability to tell time, read and write, and items relating to educational and employment history, living situation, and contact with ID services. The LDSQ can be administered by those without specialized training (such as law enforcement and correctional personnel). It was designed in the United Kingdom.<sup>46</sup>

**Masking** – Masking describes a common set of behaviors among people with intellectual disabilities and autism. These behaviors seek to compensate for or disguise the individual’s condition. Researchers first described this phenomenon as the “cloak of competence.” Especially in criminal-justice settings, masking can be an obstacle in identifying individuals with intellectual disabilities, who may for instance adopt a “tough guy” persona to mask lack of understanding and protect themselves from others by hiding their potential vulnerability.<sup>47</sup>

**Neurodevelopmental disability** – This is an umbrella term. It includes intellectual disability (also known as intellectual developmental disorder). It also includes attention-deficit/hyperactivity disorder (ADHD), autism spectrum disorder (ASD), as well as many other disorders. A factor that these disorders have in common is that they onset during the

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<sup>45</sup> American Psychological Association. (2018, April 19). *IQ*. APA Dictionary of Psychology. <https://dictionary.apa.org/iq>

<sup>46</sup> Wijetunga, C. (2020). Evaluating Intellectual Disability Screening in a Correctional Setting (Order No. 27995585), 51, Available from ProQuest Dissertations & Theses Global; ProQuest Dissertations & Theses Global Closed Collection. (2462421937). <https://www.proquest.com/dissertations-theses/evaluating-intellectual-disability-screening/docview/2462421937/se-2>.

<sup>47</sup> Katie Kronick, *Left Behind, Again: Intellectual Disability and the Resentencing Movement*, 101 N.C. L. REV. 959, 979-980.

developmental period, often before a child enters school.<sup>48</sup> The term “neurodevelopmental disability” is sometimes referred to as “developmental disability,” because of its added specificity, though the two are used to refer to the same set of conditions.

**Sequential Intercept Model** – The Sequential Intercept Model was developed as a conceptual model to inform community-based responses to the involvement of people with mental and substance use disorders in the criminal justice system. It identifies different points in time in which community and state agencies can intervene to divert people with mental illness and substance use disorder away from the justice system and into treatment.<sup>49</sup>

**Standard error of measurement (SEM)** – In statistics, SEM estimates how repeated measures of a person on the same instrument tend to be distributed around his or her “true” score.<sup>50</sup> Current tests do not measure IQ to a level of accuracy of one point: there is a margin of error, usually considered to be about five points either side of the obtained IQ, which should be customarily taken into account when making a diagnosis of ID.<sup>51</sup> For instance, if the threshold for ID is set at 70, then a test of up to 75 would be within SEM of the threshold.

**Traumatic brain injury (TBI)** – According to Johns Hopkins Medicine, “TBI happens when a sudden, external, physical assault damages the brain. It is one of the most common causes of disability and death in adults. TBI is a broad term that describes a vast array of injuries that happen to the brain.... The severity of a brain injury can range from a mild concussion to a severe injury that results in coma or even death.”<sup>52</sup> TBI can sometimes lead to persistent cognitive deficits, functional deficits, or social difficulties.

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<sup>48</sup> American Psychiatric Association. (2022). Neurodevelopmental disorders. *Diagnostic and Statistical Manual of Mental Disorders*.

[https://doi.org/10.1176/appi.books.9780890425787.x01\\_neurodevelopmental\\_disorders](https://doi.org/10.1176/appi.books.9780890425787.x01_neurodevelopmental_disorders)

<sup>49</sup> Substance Abuse and Mental Health Services Administration. (2022, September 27). *The Sequential Intercept Model (SIM)*. SAMHSA. <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

<sup>50</sup> the Bureau of Exceptional Education and Student Services. (1996). *Technical Assistance Paper: Standard Error of Measurement (SEM)*. The New Department of Education. <https://www.fldoe.org/core/fileparse.php/7567/urlt/y1996-7.pdf>

<sup>51</sup>Whitaker, Simon (2010) *Error in the estimation of intellectual ability in the low range using the WISC-IV and WAIS-III*. *Personality and Individual Differences*, 48 (5). pp. 517-521. <https://eprints.hud.ac.uk/id/eprint/7044/2/WhitakerError.pdf>

<sup>52</sup> Johns Hopkins University. (n.d.). *Traumatic brain injury*. Johns Hopkins Medicine. <https://www.hopkinsmedicine.org/health/conditions-and-diseases/traumatic-brain-injury>

## APPENDIX B

### Located Diversion and Similar Programs for Individuals with Intellectual Disabilities

<b>Location</b>	<b>Program</b>	<b>Eligibility</b>	<b>Length</b>
Arizona – Maricopa County	<a href="#"><u>Developmental Disabilities – Felony Diversion Program</u></a>	Lower-level felonies, DD diagnosis	Est. 1 year
California	<a href="#"><u>Penal Code: Diversion of Defendants with Cognitive Developmental Disabilities</u></a>	Misdemeanors, select felonies (no voluntary homicides or sexual crimes), DD diagnosis	Up to 2 years
Colorado	<a href="#"><u>Col. Rev. Stat.: Juvenile Diversion Program</u></a>	Juvenile; behaviors or symptoms consistent with ID, developmental disability, other mental health issue	Unknown
Florida – Broward County	<a href="#"><u>Felony Mental Health Pretrial Diversion Program</u></a>	2 <sup>nd</sup> - or 3 <sup>rd</sup> -degree felony (no dwelling burglary and firearms), no more than 3 prior felonies	At least 1 year
Florida – Polk County	<a href="#"><u>Behavioral Health Court</u></a>	Mental health or developmental disorder	6 months (mis.) or 1 year (felony)
Florida – Alachua County	<a href="#"><u>Mental Health Court</u></a>	Qualifying misdemeanor (no sex offense, some DV, some battery), traffic offense, and third-degree felony; mental illness or DD	Est. 9-12 months
Florida – 19 <sup>th</sup> Judicial Circuit	<a href="#"><u>Mental Health Court</u></a>	Severe mental illness or ID as primary diagnosis	6 months (mis.) or 1 year (felony)
Illinois – Kane County	<a href="#"><u>Treatment Alternative Court</u></a>	Non-violent felony offense; Axis I mental illness or DD	Est. 2 years

Indiana – Monroe County	<a href="#">Pre- and Post- Conviction Forensic Diversion Programs</a>	Addiction, mental illness, ID or DD; non-violent misdemeanor or reducible Level 6 felony; no prior violent offense	Up to 2 years (mis.) or 3 years (felony)
Iowa – South Central Region	<a href="#">Jail Alternatives Program</a>	Mental health disorder, ID or developmental delay; agreement of attorneys, program staff, and judge	Varies
Michigan	<a href="#">Mental Health Courts</a>	Defined by state statute to include individuals with developmental disabilities; no violent offenders	Varies
Nebraska – Sarpy County	<a href="#">Mental Health Diversion</a>	Identified mental, physical or developmental needs; no violent or extensive criminal history	Varies
Nevada – Clark County	<a href="#">Detention Alternative for Autistic Youth Court</a>	10-18 years old; autism diagnosis	At least 6 – 18 months
Nevada – Washoe County	<a href="#">Mental Health Court</a>	Misdemeanor or low-level felony charge (violent crime and sex offense on case-by-case); diagnosis including DD; prior criminal history	At least 1 year
New Jersey	<a href="#">Criminal Justice Advocacy Program*</a>	ID or DD; case-by-case assessment and agreement of attorneys, program staff, and judge	Varies
New York – Kings County	<a href="#">Mental Health Unit</a>	Not eligible for Mental Health Court, but defendants with ID screened for other treatment	Unknown

North Carolina	<a href="#">Juvenile Recommendation Plan</a>	Juvenile; adjudicated delinquent; severe emotional disturbance or ID	Unknown
North Dakota	<a href="#">Individual Justice Plan</a> *	Mental illness, cognitive impairment, or DD	Varies
Ohio – Cuyahoga County	<a href="#">Mental Health and Developmental Disabilities Court</a>	Severe mental health issues or DD with <75 IQ or adaptive skills deficit; no murder or manslaughter	6 months to 5 years (not exclusively diversion)
Ohio – Delaware County	<a href="#">Mental Health Docket</a>	Mental health and/or developmental disabilities	Unknown
Oklahoma – Oklahoma and Cleveland Counties	<a href="#">Mental Health Court</a>	Mental illness or developmental disability; will consider criminal charges and history, including violent history	Unknown
Oklahoma – Tulsa County	<a href="#">Tulsa County Community Sentencing</a>	Mental illness or DD; non-violent felony; moderate score on Level of Services Inventory	Unknown
Oregon – Washington County	<a href="#">Mental Health Diversion Pilot Program</a>	Mental illness, but DD on case-by-case basis; non-violent misdemeanor	At least 1 year
Pennsylvania – Philadelphia County	<a href="#">Mental Health Court</a>	Mental illness, TBI, or ID; misdemeanor and discretionary felonies	Varies
Virginia – Fairfax County	<a href="#">Diversion First</a>	Mental illness or ID; low-level offense	Unknown
Washington – Spokane County	<a href="#">5177 Mental Health Prosecutorial Diversion Program</a>	Mental illness, TBI, autism, or DD; misdemeanor or low-level felony	Unknown

\*Non-profit initiatives



## APPENDIX C

### **States Without Diversion Programs for Individuals with Intellectual Disabilities**

This list is based on a cursory Google search for diversion programs that are explicitly open to individuals with intellectual or developmental disabilities, as of Spring 2024. A state's inclusion on this list does not mean an applicable program does not exist; it just means that no program was located upon an initial online review using the search terms described previously.

- Alabama
- Alaska
- Arkansas
- Delaware
- Georgia
- Hawaii
- Idaho
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Minnesota
- Mississippi
- Missouri
- Montana
- New Hampshire
- New Mexico
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- West Virginia
- Wisconsin
- Wyoming

## APPENDIX D

### Other State-Level Initiatives for Justice-Involved Individuals with Intellectual Disabilities

- Colorado – early sex offender registry removal<sup>53</sup>
  - A person may file a petition to exclude themselves from the sex offender registry if they suffer from a severe intellectual disability and thus are “permanently incapacitated and do[] not present an unreasonable risk to public safety.”
- Georgia – guilty but with intellectual disability<sup>54</sup>
  - Defendants can plead “guilty but with intellectual disability” or be found “guilty but with intellectual disability.” With this, the Department of Corrections will evaluate and treat the mental health needs of the defendant upon the defendant’s placement into their custody. This finding also prevents the death penalty from being imposed on these defendants.
- Virginia - deferred disposition<sup>55</sup>
  - Allows a court to defer and dismiss the criminal case against a defendant who has been diagnosed with autism or an intellectual disability if the court finds, by clear and convicting evidence, that the criminal conduct “was caused by or had a direct and substantial relationship to the person's disorder or disability.”

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<sup>53</sup> CO Code § 16-22-113. Petition for removal from sex offender registry—mandatory hearing for discontinuation and removal (2022). <https://codes.findlaw.com/co/title-16-criminal-proceedings/co-rev-st-sect-16-22-113/#:~:text=Colorado%20Revised%20Statutes%20Title%2016,hearing%20for%20discontinuation%20and%20removal>

<sup>54</sup> GA Code § 17-7-131. Proceedings upon plea of insanity or mental incompetency at time of crime (2022). <https://law.justia.com/codes/georgia/2022/title-17/chapter-7/article-6/part-2/section-17-7-131/>

<sup>55</sup> SB 133 Criminal cases; deferred disposition. 2020 Session, Virginia Senate (Vir. 2020). <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+SB133&201+sum+SB133>