



Disability Rights Connecticut
Connecticut's Protection and Advocacy System

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To: Alex Tsarkov, J.D., Executive Director, Sentencing Commission

From: Deborah Dorfman

Re: Prevalence of Individuals with Intellectual Disabilities in the Criminal Justice System

Date: January 30, 2025

I. INTRODUCTION

The purpose of this memo is to provide the Sentencing Commission with information to aid in determining the estimated scope of services and related costs of the proposed diversion legislation for people with intellectual disabilities and/or autism spectrum disorder. Specifically, this memo provides available information about the prevalence of individuals in Connecticut's criminal justice system who have intellectual and other developmental disabilities (IDD) including autism spectrum disorder. It also provides information about select IDD diversion programs throughout the United States, including the scope of services provided. These programs include Rockland County, New York; California; and Maricopa County, Arizona.

II. PREVALENCE OF DEVELOPMENTAL DISABILITIES AND INTELLECTUAL DISABILITIES

Although there is little data the prevalence of people with IDD in the criminal justice system nationally as well as in Connecticut, there is some useful existing data that is instructive when considering the impact that a criminal justice diversionary program for people with IDD in Connecticut would have from a fiscal and programmatic perspective. Specifically, as explained below, the existing data shows that relative to the overall population of people with IDD in Connecticut and relative to the overall population who are involved in the criminal justice system who are incarcerated, the number of people with IDD for whom the proposed diversionary legislation would affect is relatively low.

A. Prevalence of Developmental Disabilities and Intellectual Disabilities in Connecticut

In order to consider the fiscal impact of a diversionary program for people with IDD in Connecticut, it is important to have a picture of the estimated size of the overall IDD population

in Connecticut. According to the United States Agency on Community Living (ACL), it is estimated that there are approximately **43,000** people with “developmental disabilities” in Connecticut.¹ This estimate is based upon the definition of “developmental disabilities”² as defined by the Developmental Disabilities and Bill of Assistance Act (DD Act) which is broader than the definition of “intellectual disability”³ as defined by Connecticut.

Although there is not a precise a number for all people with intellectual disabilities in Connecticut, there is reported data regarding the total number of individuals with intellectual disabilities who are eligible for services from the Connecticut State Department of

¹ Connecticut Council on Developmental Disabilities, Definition and demographics of developmental disabilities, available at <https://portal.ct.gov/ctcdd/common-elements/v4-template/definition> (last visited 1-29-2025) citing Havercamp, S.M., Krahn, G., Larson, S., Weeks, J.D., and the National Health Surveillance for IDD Workgroup (2019). Working Through the IDD Data Conundrum: Identifying people with Intellectual Disability and Developmental Disabilities in National population Surveys. Washington, D.C.: Administration on Intellectual and Developmental Disabilities. https://aclprdep01.azureedge.net/cdn/ff/1iflcHhToo9FRTlfo47Yw-wct5dWX-Sf_RHQqY0XJhI/1569854188/public/Aging%20and%20Disability%20in%20America/National_Data_Paper_AID_D-ACL_09.25.2019%20508%20compliant.pdf (note that this link is currently unavailable while ACL reorganizes its website).

² Under federal law, “developmental disability”² is defined to mean “a severe, chronic disability of an individual that—

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (I) Self-care.
 - (II) Receptive and expressive language.
 - (III) Learning.
 - (IV) Mobility.
 - (V) Self-direction.
 - (VI) Capacity for independent living.
 - (VII) Economic self-sufficiency; and reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

42 U.S.C. § 15002(8).

³ In Connecticut, the state definition of an “intellectual disability” is:

(a) Except as otherwise provided by statute, “intellectual disability” means a significant limitation in intellectual functioning existing concurrently with deficits in adaptive behavior that originated during the developmental period before eighteen years of age.

(b) As used in subsection (a) of this section, “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.

Developmental Services (DDS).⁴ The most recent data that DDS has been published was as of June 2024 at which time DDS reported that there a total of **17,481** individuals with intellectual disabilities in the State of Connecticut who were eligible for DDS services. This number includes 905 individuals who were 17-years or younger and **16,576** adults (18 years and older).⁵ This number is significantly less than people who fall into the broader category of “developmental disabilities” described above.

In Connecticut, there are approximately 65,377 adults ages 18-84 who have been diagnosed as having ASD.⁶

B. Prevalence of Individuals with Developmental Disabilities involved in the Criminal Justice System

Another important consideration with respect to understanding the fiscal and programmatic impact of the proposed legislation for a diversionary program for people with intellectual disabilities and/or ASD, is to try to understand, to the extent currently possible, based on available data, the number of people with intellectual disabilities and/or ASD who are in Connecticut’s criminal justice system.

1. National Prevalence Rates

As noted above, there is little data on the prevalence of people with disabilities in jails and prisons throughout the United States, including Connecticut. This is largely because most criminal justice systems do not screen for developmental disabilities and relatedly, often, many individuals with developmental disabilities have not been diagnosed.⁷ However, there is some data that is instructive and can help inform the number of people in Connecticut who would be eligible for an IDD diversionary program and aid in determining the cost of implementation of such legislation. This data includes both national as well as some limited state data. For example, in a well-regarded study from 2000 by Joan Petrisilla found that they represented between 4-10% of the prison population nationally.⁸

In a more recent, and often cited, national study issued by the federal governments’ Bureau of Justice Statistics (BJS) that was first published in 2016 addressing the number of people with disabilities, including cognitive disabilities, in state and federal jails and prisons, found that percentage of people with a “cognitive disability” was approximately to be **24 %** —which was the highest among different disabilities in jails and prisons nationally reported in the study.⁹ This

⁴ To be eligible for services from Connecticut’s Department of Developmental Services (DDS) an individual must: be a resident of Connecticut, and have an intellectual disability as defined under CT Gen Stat § 1-1g or have a medical diagnosis of Prader-Willi Syndrome diagnosed by a physician. Connecticut Department of Developmental Services “Eligibility Fact Sheet” available at [Eligibility Fact Sheet](#) (last accessed 1-29-2025).

⁵ See MIRs for 2024 at p. 33, available at [mir_june_2024_with_attachment.pdf](#).

⁶ Patricia M. Dietz, Charles E. Rose, *et al.*, *National and State Estimates of Adults with Autism Spectrum Disord.*, 50 J. AUTISM DEV. DISORD. 4258 (2020), available at [National and State Estimates of Adults with Autism Spectrum Disorder - PMC](#) (last access 1-30-2025).

⁷ Michelle Walton, *Barriers to Justice: Inaccessibility of New York’s Criminal Justice System for Individuals with Intellectual and Developmental Disabilities*, 14 ALBANY GOVT L. REV. 72 (2020).

⁸ JOAN PETERSILIA, *DOING JUSTICE? THE CRIMINAL JUSTICE SYSTEM AND OFFENDERS WITH DEVELOPMENTAL DISABILITIES* 4 (2000).

⁹ Laura M. Maruschak, Jennifer Bronson, Ph.D., and Mariel Alper, Ph.D, *Survey of Prison Inmates, 2016, Disabilities Reported by Prisoners*, United States Dep’t of Justice Bureau of Justice Statistics at pp. 1 (Figure 1), 3

was an increase from 19.5% in an earlier similar study by BJS in 2011-12.¹⁰ In the study, “cognitive disability” was defined as a disability that “describes a variety of medical conditions affecting different mental tasks, such as problem-solving, reading comprehension, attention, and remembering. A cognitive disability is not the same as a mental disorder.”¹¹ This definition is much broader than the definition of “intellectual disability” in Connecticut and the DD Act’s definition of “developmental disability.”¹² It is also broader than the target groups of the proposed diversion legislation which is limited to people with “intellectual disability” as defined in Connecticut and people with ASD.¹³

2. Connecticut Prevalence of Individuals with Intellectual Disabilities in the Criminal Justice System¹⁴

In Connecticut, the overall prison population in Connecticut, which includes both sentenced and unsentenced people, in December 2024 was 10, 896 (3791 pretrial and 6765 sentenced).¹⁵ The current reported data regarding the number of people with intellectual disabilities who are in the criminal justice system is data that we have from DDS’ quarterly Management Information Reports (MIRs) that report the number of people who are DDS eligible and are, or have been, incarcerated at DOC at some point since March of 2022. Specifically, in the most current MIRS report,¹⁶ DDS reported that as of **June 2024**, that of the 16,576 adults in Connecticut eligible for DDS services, there were **15 (0.085%)** in DOC custody. *Id.*¹⁷ In June of there were 2024 a total

(Table 2), available at [Disabilities Reported by Prisoners - Survey of Prison Inmates, 2016](#) (last accessed 1-30-2025).

¹⁰ *Id.* at 6 (Table 6).

¹¹ BCJS Study at p. 1 fn. 2.

¹² In Connecticut:

(a) Except as otherwise provided by statute, “intellectual disability” means a significant limitation in intellectual functioning existing concurrently with deficits in adaptive behavior that originated during the developmental period before eighteen years of age.

(b) As used in subsection (a) of this section, “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.

CT Gen Stat § 1-1g.

¹³ See An Act Concerning Supervised Diversionary Program

¹⁴ As of this date, the author has been unable to obtain data that reflects the number of people who have “developmental disabilities” who are in the criminal justice systems. Requests for that data have been sent to one state agency and will be sent to additional state agencies this week.

¹⁵ [monthly-indicators-report---december-2024.pdf](#) (last accessed 1-29-2025).

¹⁶ available at [mir_june_2024_with_attachment.pdf](#) at p. 3.

¹⁷ This data is the most recently reported data by Connecticut’s DDS. This number does represent all individuals with IDD in Connecticut’s justice system. First, it does not, however, account for individuals with intellectual disabilities in Connecticut who have not enrolled in DDS services and for individuals who have developmental disabilities who do not qualify as intellectual disabilities in Connecticut given the narrow definition of intellectual disability in Connecticut. It also does not include the number of individuals who may not be in the custody of DOC because they have been released on bail, their own reconnaissance, have had their cases dismissed, or found

of 10116 people incarcerated in DOC. Therefore, the 15 DDS-eligible clients at DOC, as reported by DDS in its MIRS at the time, accounted for 0.148% of the entire incarcerated population of individuals incarcerated at DOC.

In looking at the history of DDS' data for the past three years beginning in March of 2022, the number of DDS-enrolled individuals in the custody of DOC has been consistently relatively low. Specifically, DDS has reported:

- In March of 2024 DDS reported that there were **13** people in DOC custody;¹⁸
- In December of 2023 DDS reported that there were **12** people in DOC custody;¹⁹
- In September of 2023 DDS reported that there were **11** people in DOC custody;²⁰
- In June of 2023, DDS reported that there were **9** people in DOC custody;²¹
- In March of 2023, DDS reported that there were **8** people in DOC custody;²²
- In December of 2022, DDS reported that there were **9** people in DOC custody;²³
- In September of 2022, DDS reported that there were **8** people in DOC custody;²⁴
- In June of 2022, DDS reported that there were **7** people in DOC custody;²⁵ and
- In March of 2022, DDS reported that there were **8** people in DOC custody.²⁶

Other informative data includes data set forth in the Sentencing Commission's study of the mental health disorders of individuals incarcerated in Connecticut's correctional facilities, published in 2023. In that study, researchers found that based upon the data provided for the study by the Connecticut Department of Correction in 2022, there were, at that time, 90 people with intellectual disabilities²⁷ and 39 with ASD.²⁸

Finally, there are also a number of individuals who have co-occurring intellectual disabilities and mental health needs. These individuals are eligible for other existing mental health diversion programs in Connecticut so long as they met the other criteria. Thus, these individuals would not be included in the calculations of the costs of a new IDD diversionary law.²⁹

incompetent to stand trial. This number also does not tell us whether any of the DDS-eligible individuals have co-occurring mental health disabilities that would have made them eligible for existing diversion programs.

¹⁸ [mir_march_2024_with_attachment.pdf](#) at p. 3.

¹⁹ [mir_december_2023_with_attachment.pdf](#) at p. 3

²⁰ [mir_september_2023_with_attachment.pdf](#) at p. 3.

²¹ [mir_june_2023_with_attachment.pdf](#) at p. 3.

²² [mir_march_2023_with_attachment.pdf](#) at p.3.

²³ [mir_december_2022_with_attachment.pdf](#) at p. 3

²⁴ [mir_september_2022_with_attachment.pdf](#) at p. 3

²⁵ [mir_june_2022_with_attachment.pdf](#) at p. 3

²⁶ [mir_march_2022_with_attachment.pdf](#) at p. 3

²⁷ This data does not indicate whether any or all of the 90 were enrolled in DDS services.

²⁸ Alex Tsarkov, J.D., Reena Kapoor, M.D., *et al.* "Mental Health Disorders in Connecticut's Incarcerated Population," Connecticut Sentencing Commission (Jan. 2023) available at chrome extension://efaidnbmnnnibpcajpcglclefindmkaj/https://ctsentencingcommission.org/wp-content/uploads/2023/03/Mental-Health-Disorders-in-Connecticuts-Incarcerated-Population-1.pdf (last accessed 1-29-2025).

²⁹ In a 2013 report by Professors Stephen M. Cox, Ph.D. and Damon Mitchell, Ph.D. at the Institute for the Study of Crime and Justice Department of Criminology and Criminal Justice Central Connecticut State University evaluating the Supervised Diversionary Program, the researchers found that among the utilizers of the program included people with multiple

Because the current proposed legislation only extends diversion to people with “intellectual disabilities” and people with “ASD”, the universe of people eligible is much smaller than the number in the large category of people who would fall into the category of having a “developmental disability” as defined by federal law.

III. DIVERSION PROGRAMS FOR PEOPLE WITH INTELLECTUAL DISABILITIES AROUND THE UNITED STATES

There are several diversion programs throughout the United States that either focus exclusively on the needs of people with IDD (including ASD) or that include these individuals in the programs. Some examples include: the Intellectual and Developmental Disabilities Alternatives to Incarceration program in New York, diversion services for people with developmental disabilities in California, and in Maricopa County, Arizona. These programs provide insight as to the types and scope of services that could be included in a diversion program.

A. Rockland County, New York³⁰

Rockland County New York has adopted a diversion program for people with IDD and/or ASD. The program, Intellectual and Developmental Disabilities Alternatives to Incarceration (IDDATI) program.³¹ In order to qualify for the program, the individual must be a resident of Rockland County, the charge must be a non-violent offense in Rockland County. Additionally, the individual must meet one of the following criteria: have an IQ of 70 or less; have been diagnosed with Autism or other Developmental Disability, have a serious Traumatic Brain Injury, have a low Adaptive Behavior Assessment System (ABAS) score.³² In order to participate in IDDATI, a defendant must plead guilty. Misdemeanor charges require program participation for 12 months and felony charges require 18 months. The number of participants usually ranges from 10-12.³³ The success rate of the program is reported by program administrators to be 95%.³⁴ “Once successfully terminated, misdemeanor charges are disposed as “adjournment in contemplation of dismissal,” which means dismissal of charges if the participant has no new involvement with the criminal legal system for six months. For felonies, termination can mean a one-year conditional discharge or a reduction to a misdemeanor, either with or without probation.”³⁵ The program is funded by Rockland County and also Medicaid and private insurance.³⁶ Rockland County’s memo setting forth the specific policies and procedures for the IDDATI is available online at Office of the District Attorney of Rockland County, *Rockland County IDDATI Program, Policy*

diagnoses and also people diagnosed with pervasive developmental disorders among other disabilities. See Stephen M. Cox, Ph.D. and Damon Mitchell, Ph.D., *Evaluation of the Supervised Diversionary Program*, Institute for the Study of Crime and Justice Department of Criminology and Criminal Justice Central Connecticut State University (2013), available at [Preliminary Report: Evaluation of the Court Support Services Division’s Supervised Diversionary Program](#) (last accessed 1-30-2025).

³⁰ This information is from the research conducted and the research memo written by Yale Law School Student Sophie Park, on file with DRCT. (hereinafter referred to as “Park Memo”).

³¹ Rockland County, *People with Developmental Disabilities Resources*, <https://www.rocklandda.org/iddati>.

³² Park Memo at 2.

³³ *Id.* citing *Rockland County IDDATI Program, Policy & Procedure Manual*, available at [aea0d1d7-b1f04d0b9519-2a4159c656f4](#). (last accessed 1-30-2025).

³⁴ *Id.*

³⁵ *Id.*

³⁶ Park memo, *supra* note 30.

& Procedure Manual, https://www.arcnj.org/file_download/inline/aea0d1d7-b1f0-4d0b-9519-2a4159c656f4.

B. California

In California, state law allows for diversion for up to no more than two years of people with developmental disabilities. Specifically, under California Penal Code § 1001.20 *et seq.* provides for diversion for an individual who qualifies to receive services from a California regional center. Regional centers in California receive funds from California’s Department of Developmental Services to coordinate, manage services for people with IDD and contracting with providers of habilitative and related services for eligible people with developmental disabilities in California.³⁷ In California, eligible individuals with IDD can receive state and federally funded services. California’s Lanterman Act provides a state-funded entitlement to services.

To qualify for diversion services, in addition to qualifying for regional center services, the individual must be charged with a misdemeanor or a non-serious felony,³⁸ and the person must not have been the diversion program in the prior two years.³⁹ If the person meets this criteria, the regional center evaluates the person’s eligibility and proposes a diversion program to the Court based upon the individual’s need.⁴⁰ Under the California diversion statute for people with IDD “‘Diversion-related treatment and habilitation’ means, but is not limited to, specialized services or special adaptations of generic services, directed toward the alleviation of developmental disability or toward social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with this disability and of the individual’s family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to ensure delivery of services to persons with developmental disabilities.”⁴¹ Finally, California provides diversion services to people with IDD through what California refers to a “dual agency” or a “single agency”

³⁷ [Regional Centers : CA Department of Developmental Services](#)

³⁸ Felonies excluded from the diversion for people with IDD include:

- (1) Murder or voluntary manslaughter.
- (2) An offense for which a person, if convicted, would be required to register pursuant to Section 290, except for a violation of Section 314.
- (3) Rape.
- (4) Lewd or lascivious act on a child under 14 years of age.
- (5) Assault with intent to commit rape, sodomy, or oral copulation, in violation of Section 220.
- (6) Commission of rape or sexual penetration in concert with another person, in violation of Section 264.1.
- (7) Continuous sexual abuse of a child, in violation of Section 288.5.
- (8) A violation of subdivision (b) or (c) of Section 11418.

CA Penal Code § 1001.21.(b)(1)-(8).

³⁹ CA Penal Code § 1001.21.(c).

⁴⁰ CA Penal Code § 1001.22(a).

⁴¹ CA Penal Code § 1001.20.(b).

diversion order.⁴² A “dual agency” diversion order is one where the diversion is administered by both the Department of Probation and the regional center jointly and the diversion treatment is addressed to specifically to the criminal charge.⁴³ A “single agency” diversion order is administered only by the regional center.⁴⁴

C. Arizona

Maricopa County in Arizona has a felony diversion program for people with IDD, known as the “Developmental Disabilities – Felony Diversion Program,” which began in 2021.⁴⁵ Under the program, individuals with IDD who qualify and who have been charged with a lower-level felonies can be diverted. As part of the requirements of diversion, the individual is assessed a \$2000.00 restitution fee and must comply with treatment ordered by the Court as part of the diversion program. The treatment available is individualized and is “comprehensive and evidence-based therapeutic approach, rooted in Behavioral Modification where target behaviors are shaped through repeated reinforcement and the reward of desired behaviors over undesirable behaviors. Repetitive lessons will help to reshape behavior and make connections regarding criminal behavior and consequences. Individual therapy-based services will be combined with Applied Behavioral Analysis (ABA) principles to increase language and communication skills, improve attention and focus, and decrease problem behaviors. If applicable, defendants will have access to services through SB&H’s Southwest Autism Center of Excellence (SACE), a specialized program serving clients with Autism and Intellectual Disabilities. Treatment will be individualized with consideration for the defendant’s risk level to reoffend, adaptive behaviors and cognitive functioning/abilities. Therefore, program length will vary. At the end of treatment, staff will review the defendant’s case history and progress. All defendants will receive a post assessment as part of the determination process for successful or unsuccessful completion.”⁴⁶ In some cases there are aftercare services are also available after diversion is successfully completed.⁴⁷

VI. CONCLUSION

For the reasons explained above, it is anticipated that because the numbers of people who would be eligible for the program would be relatively low, it would not be costly to fund the proposed legislation, particularly because this proposed legislation does not seek funding for a housing component. Furthermore, for at least some portions of the program, there may be opportunities for the state to bill Medicaid or private insurance to fund some of the services, as Rockland County in New York appears to have been able to do. More research into insurance billing options should be conducted. Further, in conducting a cost-analysis, it is important to consider what could likely be a high cost of serving individuals with IDD if they are incarcerated in the Connection Department of Corrections system versus through diversion.

⁴² CA Penal Code § 1001.28.

⁴³ CA Penal Code § 1001.20(f).

⁴⁴ CA Penal Code § 1001.20(g).

⁴⁵ Maricopa County, Arizona, Developmental Disabilities – Felony Diversion Program (DD-FDP) Overview: available at [MCAO-DD-FDP-Diversion-Program-Handout---Public](#) (last accessed on 1-30-2025).

⁴⁶ *Id.* at 2.

⁴⁷ *Id.*

