CONNECTICUT SENTENCING COMMISSION

Resolution No. 2026-02

Proposed Resolution Regarding the Recommendations from the Report on Intellectual and Developmental Disabilities in the Criminal Justice System

Resolution

WHEREAS, the Connecticut Sentencing Commission was mandated to study intellectual development disabilities in the criminal justice and provide recommendations to the Connecticut General Assembly under Public Act No. 23-137.

NOW, THEREFORE BE IT RESOLVED, that the Connecticut Sentencing Commission hereby adopts the following fifteen recommendations submitted by the Mental Health Advisory Committee, which were developed in response to and in alignment with the findings of the Report on Intellectual and Developmental Disabilities in the Criminal Justice System.

1. Provide education about identifying individuals with I/DD in the criminal justice system.
2. Improve the State of Connecticut's data collection and estimation practices for individuals with I/DD.
3. Increase interagency collaboration for data reporting.
4. Create a presumption of outpatient competency restoration for individuals with I/DD who are found not competent but restorable and explore inpatient options beyond Whiting Forensic Hospital when an outpatient placement is not suitable.
5. Incorporate a statutory definition of developmental disability.
6. Develop an I/DD Diversionary Program.
7. Eligibility for an I/DD diversionary program for individuals with an intellectual disability should not be limited to applicants with an IQ score below 69.
8. Identify a single entity that should be deemed responsible for the program.
9. Expand I/DD research efforts to include a qualitative component and create an expert panel to recommend relevant policies.
10. An applicant's pending charge and criminal history should not preclude eligibility.
11. Individualized approach to clinical evaluation and development of recommendations.
12. Structure a program which provides individualized attainable goals in stages (e.g., milestones).
13. Connect individuals with voluntary, post diversion services in the community after release, as resources allow.
14. Independently evaluate the I/DD diversionary program.
15. Conduct further research into the behaviors that individuals with I/DD exhibit that result in criminal charges.

RECOMMENDATIONS

This section outlines several recommendations that Connecticut's legislature is encouraged to consider in its assessment of the potential creation of an I/DD diversionary program. Fifteen recommendations are listed based upon legislative or administrative changes to help in the development of an I/DD diversionary program.

Practices that Connecticut state agencies should adopt to help improve the state's understanding of individuals with I/DD who interact with the criminal justice system.

1. **Provide education about identifying individuals with I/DD in the criminal justice system.** This education should be available to all state agency personnel who work in the Connecticut criminal justice system. Education should include information on how to interact with individuals with I/DD to minimize dysregulation in highly stressful situations common in the criminal justice system.[1] To minimize fiscal impacts, the state should consider the use of low cost, readily available training modules, such as those available online.

2. **Improve the State of Connecticut's data collection and estimation practices for individuals with I/DD.** Population data should be collected for individuals with I/DD who do and who do not receive services from DDS. Agencies including police departments, JB-CSSD, the DOC, the Office of the Chief State's Attorney, and the Office of the Chief Public Defender should improve the data collection regarding individuals with I/DD as resources allow. Connecticut should consider implementing reliable, cost-effective screening tools, such as the LDSQ or HASI for ID and the CATI for ASD, as resources allow, to identify individuals with I/DD in the criminal justice system.

3. **Increase interagency collaboration for data reporting.** As permitted by law, state agencies that collect data on individuals with I/DD should share aggregate, de-identified data, such as rates of I/DD and types of crimes committed, to help improve the state's understanding of how individuals with I/DD interact with the criminal justice system. This may assist with crime prevention as well as improved coordination of service provision between multiple agencies.

[1] Dysregulation refers to an individual's difficulty with managing emotions and how to react to them, particularly in stressful or uncomfortable situations. It is noted that CSSD has provided some ASD training to its staff since mid-2025.

Statutory improvements to be made regarding individuals with I/DD

1. **Create a presumption of outpatient competency restoration for individuals with I/DD who are found not competent but restorable and explore inpatient options beyond Whiting Forensic Hospital when an outpatient placement is not suitable.** Whiting Forensic Hospital, which primarily serves individuals with a psychiatric disability, may be ill-equipped to provide services and treatment to individuals with I/DD.

2. **Incorporate a statutory definition of developmental disability.** Connecticut should adopt a definition of "developmental disability" in its statutes to expand program opportunities for individuals with developmental disabilities who may face criminal charges.

Decisions to be made as to how an I/DD diversionary program should be structured.

1. **Develop an I/DD Diversionary Program.** Connecticut should allocate funding for an I/DD Diversionary Program to provide services to defendants with I/DD, and when appropriate, divert such defendants from Whiting Forensic Hospital and correctional settings. Without such a program, individuals with I/DD may be placed in programs with insufficient resources to support the population.

   One potential avenue for achieving this goal is to expand the existing pretrial Supervised Diversionary Program (SDP) to include individuals with I/DD by amending CGS § 54-56*l*. With the exception of California and Arizona, the majority of states that have an I/DD diversionary program in place combine the program with a pre-existing mental health program. However, these states recognize that individuals with I/DD require individualized support plans and ongoing support throughout their life after they have completed the diversionary program.

   In expanding the SDP to include individuals with I/DD, it is recommended, due to the nature of their disabilities and, in some cases, potential inability for competency restoration, that these applicants be exempt from the requirements that they (1) acknowledge under penalty of perjury that they have not previously used the program or have not used it more than a certain number of times, (2) agree to waive their right to a speedy trial, and (3) agree to a tolling of the statute of limitations. Instead, it is recommended as a potential alternative that JB-CSSD determine their eligibility upon

application absent representation of past program use, and that the statutory rights related to a speedy trial and the statute of limitations (already satisfied by virtue of their arrest) be found automatically waived by the Court upon application up to the point of program completion or termination.

2. **Eligibility for an I/DD diversionary program for individuals with an intellectual disability should not be limited to applicants with an IQ score below 69.** As defined by CGS § 1-1g, to be classified as having an intellectual disability, an individual must have an IQ score below 69. For the purposes of a diversionary program that applies to intellectual disabilities, the IQ score criterion alone is insufficient and fails to consider risks related to other health, safety, and behavioral considerations manifested by the I/DD community. Eligibility criteria should factor in other functional and behavioral considerations that warrant supports and services to mitigate risks for committing crimes. To include persons with developmental disabilities, such as autism spectrum disorder (ASD), the program should use a standardized definition broad enough to include without co-occurring intellectual disability, as mentioned above.

3. **Identify a single entity that should be deemed responsible for the program.** This should be based on additional information learned about effective implementation components, including selection criteria of staff qualifications, and information systems to properly implement the program. More knowledge about programs in other jurisdictions will help to inform implementation of an I/DD diversionary program in Connecticut. JB-CSSD is a possible administrator of the program.

4. **Expand I/DD research efforts to include a qualitative component and create an expert panel to recommend relevant policies.** Conducting formal interviews with program administrators in Connecticut and other jurisdictions, as well as surveying the existing scholarship regarding independent program evaluations, will further the legislature's understanding on program implementation components, stages of implementation for program fidelity (e.g., early adoption to full implementation), outcome measures, and appropriate post-diversion supports. In addition, the scope would inform and advise local context and cultural considerations important to the people of Connecticut.

5. **An applicant's pending charge and criminal history should not preclude eligibility.** Connecticut's I/DD diversionary program should not automatically exclude applicants because of the crime(s) with which they have been charged, or their criminal history, but rather, consider them in the overall assessment as to whether the applicant should be

accepted into the program. Eligibility requirements must include various factors similar to factors our courts consider, such as criminal history, types of crimes charged, family or other supports available, and the severity of risk factors. This holistic consideration is important because understanding why an individual engaged in behavior constituting a crime is paramount in assessing an individual's ability to participate and succeed in a diversionary program. Like SDP, this assessment can be achieved through a clinical evaluation, and creation of a proposed treatment and support plan by a psychologist or psychiatrist with recommendations reviewed by the court, defense counsel, and prosecution.[2]

6. **Individualized approach to clinical evaluation and development of recommendations.** Guidelines for an I/DD diversionary program should recognize the need for a flexible approach to the assessment process, responding to the unique cognitive profile of each participant. These individuals present with their own strengths and challenges among various cognitive and psychological domains, impacting reasoning, communication, problem solving, planning, abstract thinking, judgment, retention, and the ability to learn from experience. An I/DD diversionary program should provide an approach to assessment and programing that responds to the unique conceptual, social, and practical function of each participant.

7. **Structure a program which provides individualized attainable goals in stages (e.g., milestones).** Goals set in treatment and support plans should be based on each individual participant's needs, monitored over time, and achieved in phases so that the participant can reasonably achieve these goals with the necessary support. Attainable goals and phases over time must include completion of minimum program requirements. Examples of goals could include: the individual makes progress on identified rehabilitation goals for post-secondary education, employment, or financial self-sufficiency; the individual takes part in therapy or counseling required as part of their treatment plan; or other obligations the court may require.

8. **Connect individuals with voluntary, post diversion services in the community after release, as resources allow.** Ongoing support and service for people with I/DD is critical for their long-term success regarding full integration in their community and reduced

[2] CGS § 54-56e, which governs the Accelerated Pretrial Rehabilitation Program, precludes various offenses from eligibility for both the AR and SDP programs. Many such offenses are sex offenses that the I/DD population is vulnerable to commit due to their disabilities and IQs, which often cause a failure to understand cultural norms and issues around consent. Further, these individuals' developmental maturity is generally years younger than their chronological ages. As a result, it is important not to exclude these and other serious offenses from eligibility by virtue of a charge; instead, the Court should have within its discretion the ability to weigh all factors, including the seriousness of the charge, in determining whether to grant the program.

recidivism. Referring these individuals where available to necessary supports and services should be part of an I/DD diversionary program.

9. **Independently evaluate the I/DD diversionary program.** This includes assessing its implementation and outcomes to improve effectiveness of the program.

10. **Conduct further research into the behaviors that individuals with I/DD exhibit that result in criminal charges.** Although there is a general understanding as to the type of crimes individuals with I/DD commit, data on crime propensity in Connecticut is not understood because the state does not track all individuals with I/DD. Further evaluation should be conducted to track recidivism rates for this population, as well as to determine appropriate program longevity as supports and necessary monitoring vary by individual and crime.

FROM: Rich Sparaco, Interim Executive Director, Connecticut Sentencing Commission
TO: Connecticut Sentencing Commission
DATE: June 4, 2026
SUBJECT: Discussions at the May 4 and May 19 Mental Health Committee Meetings Regarding I/DD Diversionary Program Recommendations

---

At its April 8 meeting, the Connecticut Sentencing Commission voted to return the recommendations concerning a diversionary program for individuals with an intellectual or developmental disability (I/DD) to the Mental Health Committee for further consideration. After meetings on May 4 and May 19, the Mental Health Committee members voted to resubmit the recommendations, as originally presented, to the full Commission along with a summary of discussions from the two meetings. This memorandum highlights five areas of particularly robust discussion drawn directly from the meeting minutes, which are available in full on the Commission's website.

1) Data Collection (Recommendation #2)

Committee members discussed the recommendation calling for criminal justice and law enforcement agencies to improve data collection practices regarding individuals with I/DD. Lisa D'Angelo of the Division of Criminal Justice noted that agencies may face difficulty complying with such a mandate. Bill O'Connor of the Office of the Chief Public Defender raised confidentiality concerns regarding mandatory data collection. Gary Roberge, Executive Director of the Judicial Branch's Court Support Services Division, expressed uncertainty about how CSSD would collect data on individuals with I/DD and emphasized that CSSD does not process all criminal defendants. Commission staff, however, stated that the intent of the recommendation was to improve data collection practices while acknowledging that such efforts may be imperfect.

2) Presumption of Outpatient Competency Restoration for Individuals with I/DD (Recommendation #4)

The Committee also considered whether to recommend a presumption of outpatient competency restoration for individuals with I/DD.

D'Angelo and State Victim Advocate Natasha Pierre opposed such a presumption, expressing concern that allowing individuals charged with serious offenses to undergo restoration in the community could compromise victim and public safety.

Mental Health Committee Co-Chair Jennifer Zito countered that the presumption would be rebuttable, and Superior Court Judge Courtney Chaplin noted that it would not necessarily be difficult to rebut. The Committee discussed the potential inclusion of language clarifying how the presumption would be rebutted. Jessica Waggoner, Director of DMHAS Forensic Services, emphasized that the statute would also need to clarify whether the presumption of outpatient restoration would apply to individuals with co-occurring I/DD and psychiatric disabilities.

3) Excludable Offenses (Recommendation #10)

Another area of discussion was whether certain charges should be excluded from eligibility for an I/DD diversionary program.

Zito, O'Connor, and State Senator Cathy Osten asserted that judges should retain discretion to assess an individual's suitability for the program regardless of the underlying charge. Zito specifically identified sexual offenses as an important category for inclusion, noting that individuals with I/DD are uniquely prone to committing these offenses without understanding the implications of their actions and that their developmental age often lags their chronological age. Zito also argued that felony murder offenses should remain eligible because individuals with I/DD may be tricked into helping others commit a crime.

Pierre and D'Angelo instead favored mirroring the eligibility criteria of the Pretrial Supervised Diversionary Program (SDP), which excludes all class A felonies, most class B felonies, class C felonies absent good cause, and certain other offenses. Pierre expressed concern that allowing individuals to be considered regardless of offense could minimize victim input.

Members also discussed potential compromise proposals that would exclude certain offenses, though fewer than those excluded under the SDP.

4) Multiple Use (Recommendation #10)

Another area of deliberation was whether individuals should be permitted to use an I/DD diversionary program multiple times and, if so, how many times.

Zito and O'Connor supported unlimited use, noting that I/DD is a lifelong condition. Pierre and D'Angelo instead preferred mirroring the standards of the SDP, which permits participation only twice. As a potential compromise, Zito suggested modeling the program after the Drug Education and Community Service Program, which allows for three uses.

5) Fiscal Impact

After members expressed concerns about the fiscal impact of a potential I/DD diversionary program at the full Commission meeting on April 8, Commission staff attempted to estimate program usage and cost using available Connecticut data, information from diversionary programs in other jurisdictions, and academic research regarding the prevalence of I/DD in prisons. While these sources reported a wide range of prevalence estimates, staff concluded that the number of participants would likely not exceed 50 per year. Staff were unable to develop a reliable cost estimate but noted that Medicaid covers certain I/DD diversionary program services in other jurisdictions.

Roberge and Zito emphasized the inherent uncertainty in any usage or cost estimate. Senator Osten agreed but stated that cost estimates fall outside the Commission's purview.