

REFERENCE TITLE: prearrest deflection program; procedures

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2638

Introduced by
Representatives Blackman: Bolick

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 15; RELATING TO PREARREST SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 38, Arizona Revised Statutes, is
3 amended by adding article 15, to read:

4 ARTICLE 15. PREARREST DEFLECTION PROGRAM

5 13-4001. Prearrest deflection program; providers; information
6 sharing; immunity

7 A. A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS
8 STATE OR A LAW ENFORCEMENT AGENCY MAY ESTABLISH A PREARREST DEFLECTION
9 PROGRAM WITHIN A LAW ENFORCEMENT AGENCY THAT PARTNERS WITH AT LEAST ONE OF
10 THE FOLLOWING ENTITIES:

- 11 1. A TREATMENT PROVIDER.
- 12 2. A CASE MANAGEMENT PROVIDER.
- 13 3. A COMMUNITY MEMBER.
- 14 4. ORGANIZATIONS OR OTHER KEY STAKEHOLDERS, AS ADVISABLE, TO CARRY
15 OUT THE PROGRAM.

16 B. THE PREARREST DEFLECTION PROGRAM MUST INCLUDE AT LEAST ONE OF
17 THE FOLLOWING:

- 18 1. A POST-OVERDOSE DEFLECTION RESPONSE.
- 19 2. A SELF-REFERRAL DEFLECTION RESPONSE.
- 20 3. AN ACTIVE OUTREACH DEFLECTION RESPONSE.
- 21 4. AN OFFICER PREVENTION DEFLECTION RESPONSE.
- 22 5. AN OFFICE INTERVENTION DEFLECTION RESPONSE.

23 C. THE LAW ENFORCEMENT AGENCY, TREATMENT PROVIDERS, CASE MANAGEMENT
24 PROVIDERS AND COMMUNITY MEMBERS OR ORGANIZATIONS MAY ESTABLISH A LOCAL
25 DEFLECTION PROGRAM PLAN THAT INCLUDES PROTOCOLS AND PROCEDURES FOR
26 IDENTIFYING PARTICIPANTS, SCREENING AND, IF NEEDED BASED ON THE SCREENING,
27 ASSESSING, TREATMENT FACILITATING, REPORTING AND ONGOING MONITORING OF THE
28 PROGRAM PARTICIPANTS, INCLUDING WHICH PARTNERS WILL PERFORM THESE
29 FUNCTIONS.

30 D. WHENEVER APPROPRIATE AND AVAILABLE, A LICENSED PROVIDER OR OTHER
31 APPROPRIATE PROVIDER SHALL PROVIDE A PARTICIPANT'S CASE MANAGEMENT AND THE
32 PARTICIPANT'S CASE MANAGEMENT MAY INCLUDE RECOVERY SUPPORT SERVICES.

33 E. IN ORDER TO PROMOTE SUCCESSFUL TREATMENT AND RECOVERY OUTCOMES,
34 TREATMENT PROVIDERS AND CASE MANAGEMENT PROVIDERS SHALL SHARE INFORMATION
35 WITH THE OTHER ENTITIES THAT ARE PARTICIPATING IN THE PREARREST DEFLECTION
36 PROGRAM. ALL ENTITIES MUST COMPLY WITH APPLICABLE PRIVACY AND
37 CONFIDENTIALITY LAWS AND REGULATIONS FOR INFORMATION EXCHANGE OR RELEASE,
38 INCLUDING ALL OF THE FOLLOWING:

- 39 1. THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996
40 (P.L. 104-191; 110 STAT. 1936).
- 41 2. 45 CODE OF FEDERAL REGULATIONS PARTS 160 AND 164.
- 42 3. FEDERAL CONFIDENTIALITY LAWS AND REGULATIONS UNDER 42 UNITED
43 STATES CODE SECTION 290dd-2 AND 42 CODE OF FEDERAL REGULATIONS PART 2.

1 4. ANY RELEVANT LAW THAT IS RELATED TO THE PRIVACY, CONFIDENTIALITY
2 AND DISCLOSURE OF PROTECTED HEALTH INFORMATION, INCLUDING PROTECTED
3 INFORMATION CONCERNING SUBSTANCE USE AND MENTAL HEALTH DISORDERS.

4 5. ANY POLICIES OR REGULATIONS OF THE SINGLE STATE AUTHORITY ON
5 DRUGS AND ALCOHOL AND STATE MENTAL HEALTH AGENCY GOVERNING THE CARE AND
6 PROTECTION OF CLIENT INFORMATION.

7 F. A LAW ENFORCEMENT AGENCY, PEACE OFFICER, TREATMENT PROVIDER,
8 CASE MANAGEMENT PROVIDER OR COMMUNITY MEMBER OR ORGANIZATION THAT IS
9 ACTING IN GOOD FAITH IS NOT LIABLE FOR CIVIL DAMAGES FOR ACTS OR OMISSIONS
10 IN PROVIDING SERVICES UNLESS THE ACTS OR OMISSIONS CONSTITUTE WILFUL AND
11 WANTON MISCONDUCT.

12 G. THIS SECTION DOES NOT PRECLUDE A LAW ENFORCEMENT AGENCY FROM
13 DEVELOPING A DEFLECTION PROGRAM RESPONSE THAT IS BASED ON A MODEL THAT IS
14 UNIQUE AND RESPONSIVE TO LOCAL ISSUES, SUBSTANCE USE OR MENTAL HEALTH
15 DISORDER NEEDS AND PARTNERSHIPS, USING SOUND AND PROMISING OR
16 EVIDENCE-BASED PRACTICES.