



# County of Fayette

District Attorney's Office of Fayette County  
Michael A. Aubele, District Attorney

## ACCELERATED REHABILITATIVE DISPOSITION QUALIFICATIONS AND PROCEDURES

### **PURPOSE**

The Accelerated Rehabilitative Disposition ("ARD") program is designed to provide Defendants with an opportunity to gain dismissal of charges after successful completion of certain requirements, and without admission of guilt. The benefits include the eventual expungement of charges; potentially lower civil penalties in DUI cases; and less restrictive supervision. This Policy seeks to establish uniform guidelines to be followed by the Fayette County District Attorney's Office for acceptance into the program.

### **PROCEDURE**

At the Defendant's Preliminary Hearing, The District Attorney's Office will evaluate his/her application for the ARD program based upon any relevant information, including:

- The Defendant's criminal history;
- The nature of the offenses alleged;
- Input from the victim(s), if applicable; and
- Any other relevant factor.

The District Attorney shall have sole discretion in accepting, or rejecting, any candidate for the ARD program based on any number of relevant factors.

If the District Attorney deems the Defendant to be an appropriate candidate for ARD, the Defendant will submit the standard Fast-Track ARD Application and will be scheduled by the Magistrate's office for admission into the program. Once admitted, the Defendant will comply with all terms and conditions of the ARD program, to include compliance with all reporting requirements; payment of all fines and restitution; satisfactory completion of any required classes/programs; and participation in community service, if ordered by the Court.

## **DISQUALIFYING OFFENSES**

The ARD program shall be utilized to dispose of non-violent crimes and first-offense Driving Under the Influence (DUI). The following offenses shall not be eligible for admission into the ARD program:

- Any DUI that results in an accident with injury to a non-Defendant;
- Any DUI in which a child under the age of fifteen (15) was present in the vehicle at the time of the offense;
- Any offense graded as a felony;
- Any crime of domestic violence, including Simple Assault, when the victim is a spouse, paramour, or domestic partner;
- Any offense which causes injury to a police officer or other enumerated person(s) as defined in 18 Pa.C.S. § 2702(c);
- Any offense in which the alleged restitution amount exceeds Fifty Thousand (\$50,000) Dollars; and
- Any offense involving restitution in which the Defendant cannot repay, in full, prior to discharge from the ARD program.

\*The District Attorney shall have sole discretion to make exceptions for certain disqualifying offenses under extraordinary circumstances, which shall be placed upon the record before the Court.

## **RESTRICTIONS ON PARTICIPATION**

A Defendant will not be considered for ARD if any of the following apply:

- The Defendant has been a satisfactory participant in the ARD program, or any equivalent program, within the last fifteen (15) years prior to application;
- The Defendant has a conviction for any non-disqualifying misdemeanor offense within the last twenty-five (25) years prior to application;
- The Defendant has a prior conviction for any felony offense; or
- The District Attorney determines, based upon any relevant information, that the Defendant is not an appropriate candidate for the ARD program.

## **MULTIPLE PENDING CRIMINAL ACTIONS**

The District Attorney shall have the sole discretion to admit any Defendant into the ARD program when the Defendant has multiple pending criminal actions; however, the Defendant shall not be considered for the ARD program under the following circumstances:

- One or more of the Defendant's pending criminal actions is a "disqualifying offense" under the terms of this Policy;
- The Defendant has multiple pending DUI offenses; or
- The circumstances of the pending criminal cases indicate that the Defendant would not be a successful candidate for the ARD program.

## **WITHDRAWAL AND/OR AMENDING OF CHARGES**

In any criminal case, the District Attorney has the authority and the *obligation* to amend, add, or withdraw charges when deemed appropriate based upon the facts of the case and in the interests of justice. However, the District Attorney will not amend or dismiss charges under the following circumstances:

- The amending or dismissal of criminal charges for the purpose of avoiding, disregarding, or otherwise nullifying certain civil penalties associated with participation in the ARD program, including but not limited to:
  - o The withdrawal of chemical test results for the sole purpose of reducing the length or applicability of driver's license suspensions as determined by the Pennsylvania Department of Transportation ("PennDOT"); or
  - o The amending of DUI charges to a lesser and/or greater included offense for the sole purpose of avoiding suspension of Commercial Driver's License (CDL) privileges as determined by PennDOT;
- The dismissal and/or amendment of certain "disqualifying offenses" under this Policy if done for the sole purpose of making the Defendant eligible for admission into the ARD program; or
- The amending of restitution amounts if done for the sole purpose of allowing for participation in the ARD program.

\*The District Attorney shall have sole discretion to make exceptions under extraordinary circumstances, which shall be placed upon the record before the Court.

## **WAIVER OF ARD PROGRAM**

The following actions by the Defendant shall constitute a waiver of their consideration for entry into the ARD program:

- The Defendant fails to appear for any hearing on their application for the ARD program when given proper notice and does so without good cause;
- Rejection by the Defendant of the District Attorney's offer of ARD, if the Defendant is represented by counsel at the time of said rejection; or
- The Defendant elects to reject or withdraw their ARD application and file, through counsel, an Omnibus Pre-Trial Motion.

A general waiver of the Defendant's Preliminary Hearing, and subsequent request for discovery, shall not constitute a rejection of the District Attorney's offer of ARD.

\*The District Attorney shall have sole discretion to make exceptions to this Waiver provision, which shall be made in writing.

## **EFFECTIVE DATE OF POLICY**

This Policy shall become effective immediately.

Made this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Michael A. Aubele, Esquire  
Fayette County District Attorney