

SECOND REGULAR SESSION

HOUSE BILL NO. 1838

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GARDNER.

4301H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 545, RSMo, by adding thereto fourteen new sections relating to the accelerated rehabilitative disposition program for certain defendants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 545, RSMo, is amended by adding thereto fourteen new sections, to be known as sections 545.1000, 545.1003, 545.1006, 545.1009, 545.1012, 545.1015, 545.1018, 545.1021, 545.1024, 545.1027, 545.1030, 545.1033, 545.1036, and 545.1039, to read as follows:

545.1000. There is hereby established an "Accelerated Rehabilitative Disposition (ARD) Pilot Program" in the sixteenth, twenty-first, and twenty-second judicial circuits under sections 545.1000 to 545.1039. To qualify for such pilot program, a defendant shall:

- (1) Have no prior convictions for violent crimes or domestic violence, or as the court determines otherwise;**
- (2) Be represented by an attorney; and**
- (3) File an application to be considered for the ARD program.**

545.1003. The sixteenth, twenty-first, and twenty-second judicial circuit shall formulate procedures for ARD. Such procedures shall be in writing and shall, at a minimum, establish:

- (1) Costs and administrative expenses for ARD, provided that, the court may waive all or a portion of such costs and administrative expenses for indigent persons or based on a determination by the court that the defendant is unable to pay such costs and expenses;**
- (2) Procedures for restitution;**
- (3) Conditions of the program;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 (4) Record checking, record keeping, and reporting requirements; and

10 (5) Procedures for completion or termination of the pilot program.

2 **545.1006. 1. After criminal proceedings have been instituted and if the defendant**
3 **meets the qualifications under section 545.1000, the prosecuting attorney may move, before**
4 **a judge, that the case be considered for accelerated rehabilitative disposition.**

5 **2. Nothing in sections 545.1000 to 545.1039 shall be construed to deny or deprive**
6 **any defendant and the defendant's attorney of the right to obtain discovery, including an**
7 **opportunity to adequately review materials and information obtained through such**
8 **discovery.**

9 **545.1009. 1. When accelerated rehabilitative disposition proceedings are initiated,**
10 **the prosecuting attorney shall advise the defendant and the defendant's attorney of his or**
11 **her intention to present the case to an appropriate judge. Notice of the proceedings shall**
12 **also be given to any victim or victims of the offense charged, if applicable.**

1 **2. Information or statements supplied by the defendant to the prosecuting attorney**
2 **in an ARD application shall not be used against the defendant for any purpose in any**
3 **criminal proceedings except a prosecution based on the falsity of the information or**
4 **statement supplied.**

5 **545.1012. Hearing on a motion for ARD shall be in open court in the presence of**
6 **the defendant, the defendant's attorney, the prosecuting attorney, and victims, if any. At**
7 **such hearing, it shall be ascertained on the record whether the defendant understands that:**

8 (1) Acceptance into and satisfactory completion of the accelerated rehabilitative
9 disposition program offers the defendant an opportunity to earn a dismissal of the pending
10 charges;

11 (2) If the defendant fails to complete the program, the defendant waives the
12 appropriate statute of limitations and the defendant's right to a speedy trial under any
applicable federal or state constitutional provisions, statutes, or rules of court during the
period of enrollment in the program. Failure to complete the program shall not result in
the imposition of any penalties on the defendant, including but not limited to imposing a
more stringent plea or disposition.

1 **545.1015. 1. When the defendant, with the advice and agreement of the defendant's**
2 **attorney, indicates understanding of such proceedings, requests acceptance into the**
3 **program, and agrees to the terms set forth in section 545.1012, the stenographer shall close**
4 **the record.**

5 **2. The judge shall then hear the facts of the case as presented by the prosecuting**
6 **attorney, such information as the defendant or the defendant's attorney may present, and**
7 **from a victim or victims present, if any. No statement presented by the defendant shall be**

8 used against the defendant for any purpose in any criminal proceeding except a
9 prosecution based on the falsity of the information or statement supplied.

10 3. After hearing the facts of the case, if the judge believes that such case warrants
11 ARD, the judge shall order the stenographer to reopen the record and shall state to the
12 parties the conditions of the program. If the judge does not accept the case for ARD, the
13 judge shall order that the case proceed on the charges as provided by law. No appeal shall
14 be allowed from such order.

15 4. After the stenographer reopens the record, the defendant shall thereupon state
16 to the judge whether the defendant accepts the conditions and agrees to comply. If the
17 statement is in the affirmative, the judge may grant the motion for ARD and shall enter an
18 appropriate order as set forth in sections 545.1018 and 545.1021. If the defendant answers
19 in the negative, the judge shall proceed as set forth in section 545.1027.

20 5. Upon the judge's granting of the motion for accelerated rehabilitative
21 disposition, bail shall be terminated and any money or other form of security deposited
22 shall be:

23 (1) Applied toward any costs or administrative expenses imposed under section
24 545.1003;

25 (2) Converted to a signature bond or recognizance bond; or

26 (3) Returned in accordance with the rules pertaining to bail.

545.1018. When a defendant is accepted into the program of accelerated
2 rehabilitative disposition before the filing of an information, the judge shall order that no
3 information or indictment shall be filed with the court on the charges contained in the
4 transcript during the term of the program.

545.1021. When a defendant is accepted into the program of accelerated
2 rehabilitative disposition after the filing of an information, the judge shall order that
3 further proceedings on the charges shall be postponed during the term of the ARD
4 program.

545.1024. 1. With respect to probation after conviction of a crime, the conditions
2 of the program may include restitution, except that a fine shall not be imposed. In
3 addition, the conditions of the program may include the imposition of costs, the imposition
4 of a reasonable charge relating to the expense of administering the program, and such
5 other conditions as may be agreed to by the parties.

6 2. The period of such program for any defendant shall not exceed two years.

545.1027. If a defendant refuses to accept the conditions required by the judge, the
2 judge shall deny the motion for accelerated rehabilitative disposition. In such event, the
3 case shall proceed in the same manner as if these proceedings had not taken place.

545.1030. 1. If the prosecuting attorney files a motion alleging that the defendant during the period of the program has violated a condition thereof, or objects to the defendant's request for an order of discharge, the judge who entered the order for ARD may issue such process as is necessary to bring the defendant before the court.

2. A motion alleging such violation filed under subsection 1 of this section shall be filed during the period of the program or, if filed thereafter, shall be filed within a reasonable time after the alleged violation was committed.

3. When the defendant is brought before the court, the judge shall afford the defendant an opportunity to be heard. If the judge finds that the defendant has committed a violation of a condition of the program, the judge may order, when appropriate, that the program be terminated, and that the prosecuting attorney shall proceed on the charges as provided by law. No appeal shall be allowed from such order.

545.1033. When the defendant completes satisfactorily the program prescribed and complied with its conditions, the defendant may move the court for an order dismissing the charges. A copy of the motion shall be served on the prosecuting attorney who shall, within thirty days after service, advise the judge of any objections to the motion, serving a copy of such objections on the defendant or the defendant's attorney. If there are no objections filed within the thirty-day period, the judge shall thereafter dismiss the charges against the defendant. If there are objections filed with regard to the dismissal of charges, the judge shall proceed as set forth in section 545.1030.

545.1036. 1. When the judge orders the dismissal of the charges against the defendant, the judge also shall order the expungement of the defendant's arrest record, subject to the provisions of subsection 2 of this section. The expungement order shall contain the same information that is required in section 610.123.

2. If the prosecuting attorney objects to the automatic expungement, the objections shall be filed with the judge, together with the objections to dismissal, if any, within thirty days after service of a motion for dismissal under section 545.1033, and copies of the objections shall be served on the defendant or the defendant's attorney.

3. If the objections are filed, the judge shall hold a hearing on the objections, affording all parties an opportunity to be heard.

545.1039. The provisions in sections 545.1000 to 545.1039 shall automatically be implemented statewide after five years, unless such provisions are repealed.

✓