

Maricopa County Attorney's Office Prosecution Policies and Procedures

CHAPTER DIVERSION PROGRAMS	EFFECTIVE DATE May 18, 2020	PROCEDURE # 17.4
SECTION PARENTING SKILLS DIVERSION PROGRAM		
DISTRIBUTION CRIMINAL TRIAL ATTORNEYS	REVISION DATE March 29, 2021	REVISION # 1

The Parenting Skills Diversion Program provides counseling and education for adults who care for children in a parent or guardian role. This program is available for first time offenders who use excessive force in disciplining a child and are facing a charge of child abuse or similar offense. Those who successfully complete the diversion program as directed by an MCAO-approved provider can avoid prosecution for the offense. Entrance into the program is discretionary with the MCAO.

A. ELIGIBILITY REQUIREMENTS

An individual case and the offender must meet the following eligibility requirements to be considered for participation in this diversion program.

1. Pursuant to A.R.S. § 11-361, the offender cannot have any prior convictions for any of the following: 1) a serious offense as defined in A.R.S. § 13-706; 2) an offense under title 13, chapter 14; or 3) an offense that is defined as dangerous or dangerous crime against children in A.R.S. § 13-105.
2. Pursuant to A.R.S. § 11-361, the offender has not been convicted three or more times of personal possession of drug paraphernalia or any controlled substance as defined in section 36-2501.
3. The offender has no prior felony convictions.
4. The offender has no misdemeanor convictions for child abuse, or other crimes involving the abuse or harm or potential or attempted abuse or harm of children.
5. The offense did not result in serious physical injury.
6. The abuse did not cause the substantial disfigurement or temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part.
7. The offense did not involve the use of a dangerous instrument or the use or threatened use of a deadly weapon.

B. GENERAL CONSIDERATIONS FOR DCAs

In determining whether diversion is appropriate in an eligible case, the DCA should consider the following:

1. The age of the child, in that abuse of a young child should weigh against offering diversion.
2. The offender's criminal history, including convictions for misdemeanors and arrests for felonies and misdemeanors.
3. Whether the offense was an act in a series of abusive events involving this child or any other children.
4. Whether the offender has been the subject of any other DCS referrals.
5. Whether drug or alcohol use was involved.
6. Whether the victim needed medical treatment.
7. The nature, severity, and location of any injuries.
8. Whether the offender has previously received counseling, education, or treatment similar to that provided in this diversion program.
9. Whether the attitude of the offender appears to be such that he or she is willing to admit wrongdoing and willing to accept counseling and assistance.
10. Whether the offender has used other alternatives to this form of discipline.
11. The justification offered by the offender and the child for the discipline.

C. PROCEDURE

The DCA must have Bureau Chief approval prior to offering this diversion program.

As with other diversion programs, before entering into the diversion agreement, the offender must admit to guilt in writing, and waive all objections to the admission of that document in any subsequent trial on the matter.

If the offender successfully completes the diversion program, the charges will be dismissed with prejudice. If the offender fails to complete the program, the prosecution will resume.

D. DEVIATIONS

Except for the statutory limitations in (A)(1) and (2) above, deviations from this policy may be approved by the DCA's bureau chief with the justification for the deviation documented in the case notes in the file.