

ACCELERATED REHABILITATIVE DISPOSITION

If you've ever been involved in a court case, you know that it can take months, or even years, for a case to proceed from complaint to conclusion. This is true even in criminal cases, despite the fact that the U.S. Constitution guarantees defendants a speedy trial.

The Commonwealth of Pennsylvania has recognized that lengthy delays make no sense in cases that could be processed quickly without jeopardizing public safety. For that reason, the Pennsylvania court system has implemented the Accelerated Rehabilitative Disposition, or "ARD," program. ARDis a pre-trial program which is designed to allow the least-dangerous defendants – first-time, non-violent offenders – to circumvent the usually lengthy trial process.

The ARD program suspends the formal criminal prosecution before trial if the defendant agrees to certain conditions such as making restitution, completing substance abuse treatment, maintaining employment, and the like. The defendant doesn't have to admit to any wrongdoing when applying for ARD; however, he or she must plead guilty to any summary offenses (usually violations of the Motor Vehicle Code). Defendants who are accepted into an ARD program are placed under supervision, much like probation. The Court may impose costs and assessments, but not a fine.

The maximum period of supervision for someone on ARD is two years. If the accused successfully completes the ARD program, the underlying criminal charges are dismissed and the defendant's record is expunged of the arrest record and of the ARD disposition. In other words, his record is cleared.

The district attorney chooses who is accepted into the ARD program. The district attorney has considerable discretion when formulating policies or deciding which cases will be referred to the ARD program. This discretion is not unlimited, however, and in rare occasions, a district attorney has been found to have abused that discretion by refusing to admit a particular defendant into the program.

The conditions imposed upon the defendant under the ARD program usually aren't negotiable or subject to challenge. The defendant, though, can decide not to go into the ARD program. In that case, the defendant proceeds to trial.

Since ARD is a *pre-trial* diversion program, a defendant may not apply for admission into an ARD program after conviction. Once an accused has gone to trial and is found guilty, admission into an ARD program is no longer an option.

While 75 Pa.C.S.A. § 1552 requires that each county in Pennsylvania have an ARD program for people accused of DUI, a defendant can be kept out of the program under Pa.C.S.A. § 3807(a)(2) if one of the following has occurred:

1. The defendant has been found guilty of, or accepted ARD of, a charge brought under Section 3802 within ten (10) years of the date of the current offense. This

limitation doesn't apply, though, if the charge was for an ungraded misdemeanor under Section 3802(a)(2) and was the accused's first offense under Section 3802.

2. The current DUI involved an accident and an individual other than the accused was killed or suffered serious bodily injury as a result.
3. There was a passenger under 14 years of age in the motor vehicle the defendant was driving.

The ARD program changed in some important ways when Pennsylvania's DUI law was amended on February 11, 2004. For one thing, the "look back" period, which governs how far back in time a court can look for prior DUI convictions or ARDs, changed from seven to ten years.

Another important change in the law is that a DUI defendant cannot go into ARD if he or she had a passenger in the vehicle who was under 14 years of age. Under the new law, though, a defendant is no longer disqualified from participating in an ARD if he or she violated any of the offenses set forth in 75 Pa.C.S.A. § 1542 (relating to habitual offenders).

Just because the defendant isn't actually prohibited from ARD consideration under 75 Pa.C.S.A. § 3807(a)(2) doesn't mean she is entitled to participate. The prohibitions set forth in Section 3807(a)(2) are only the minimum criteria, and a district attorney is free to establish more stringent criteria for recommending DUI defendants for ARD.

Should you seek ARD on a DUI charge?

Just because you meet the eligibility requirements for the ARD program in a particular county does not mean that you should automatically seek ARD. A number of factors should be considered by both the you and your lawyer when determining whether to seek admission into an ARD program. Some of those factors include: (1) the strength of the Commonwealth's case; (2) the weaknesses of your case; (3) the particular circumstances of your violation and DUI arrest; (4) the importance of avoiding jail; (5) your prior record; and (6) your personal circumstances and situation. The decision whether to seek admission into an ARD program is ultimately yours, and that decision should only be made after your lawyer has fully informed you of the options available and the consequences of each.

What happens to someone who accepts ARD?

Participating in ARD has some important consequences. If you are ever convicted of a DUI in the future, your sentence may be enhanced because you will be considered a "habitual offender." You may also be subject to mandatory license suspensions, and you may be ineligible for OLL and PL (sometimes called "bread and butter" licenses).

Can you be removed from ARD?

Yes. The district attorney may file a motion with the court seeking to remove you from the ARD program if you violate a condition of ARD. Examples of grounds for removal include:

1. A commission of another offense set forth in either the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, or in 75 Pa.C.S.A. § 1542;
2. Failure to make required restitution;
3. Failure to complete the mandated highway safety school program;
4. Failure to complete any other program mandated as a condition of ARD; or
5. Violation of the terms and conditions of ARD in any other way.

If the district attorney wants to remove you from the program, he can file a motion with the court, and a hearing will then be held. If the court finds that you violated any conditions of ARD, the court may remove you from ARD. At that point, the underlying DUI prosecution is reinstated and the case proceeds as if it had never been diverted to the ARD program.

J. Timothy George
2525 West 26th St
Erie, PA 16506
United States

Phone (toll free): **866-794-2525**
Phone: **814-835-0400**
Fax: **814-835-0401**