

ARD AND DUI
QUESTIONS AND ANSWERS

WHAT IS ARD?

ARD stands for the Accelerated Rehabilitative Disposition program. Quite simply, this program gives first time offenders the opportunity to dispose of their case without an admission of guilt, without a criminal record and without the potential for a jail sentence. ARD is a diversionary program, participation in which is a privilege, not a right. A person may apply for ARD by submitting an ARD application to the District Attorney's Office no later than seven (7) days prior to formal arraignment before the Court of Common Pleas. If the District Attorney's Office deems you qualified to participate in the ARD program, the District Attorney's Office may move for your admission into ARD by presenting your application to the Court. The Court thereafter will determine whether you are admitted to the ARD program. The Court has the right to admit or deny a person's admission in ARD.

WHO IS ELIGIBLE FOR THE ARD/DUI PROGRAM?

In driving under the influence cases only first offenders and those defendants who do not have a prior DUI conviction, other criminal conviction or prior entry into a diversionary program within the last ten (10) years are eligible for application to the program. However, any of the following circumstances will preclude you from entering the ARD program:

- a. You did not have a valid driver's license at the time of the arrest.
- b. There was an accident which resulted in death or serious bodily injury to a person other than you.
- c. You were on parole or probation at the time of the incident.
- d. You were involved in fleeing or eluding the police during the incident.
- e. You were involved in any other felony or misdemeanor in addition to the DUI charge.
- f. You had a passenger in your vehicle under age 14.
- g. You have prior convictions for misdemeanors or felonies which are non-DUI related.
- h. You have any misdemeanor or felony criminal charges pending in Pennsylvania or any other state or federal jurisdiction.
- i. You were not in the United States legally at the time you were arrested or apply for the ARD Program.
- j. You did not waive your Preliminary Hearing.
- k. You filed an Omnibus Pretrial Motion for Relief.
- l. You did not submit an ARD application to the District Attorney's Office seven (7) days prior to your formal arraignment date.

- m. You did not complete your CRN evaluation prior to your formal arraignment date.
- n. The District Attorney reserves the right to exercise discretion as to inclusion pursuant to *Pa.R.Crim.P 310, et seq.*, in the interests of justice.

WHAT ARE THE REQUIREMENTS OF THE ARD/DUI PROGRAM?

If you are accepted into the ARD program, the following conditions will be imposed.

- a. You will be placed on probation supervision for nine (9) months.
- b. You will have to attend and successfully complete the Alcohol Highway Safety School.
- c. You may be ordered to undergo alcohol or drug programs. In the most severe cases there is the possibility that you could be ordered to attend an inpatient program, however, you would have an absolute right to a Court hearing before this order could be made.
- d. The costs of ARD must be paid as established by the Court and the Clerk of Courts.
- e. In accordance with Act 198 of 2002 you will have to pay \$100.00 if your BAC is below .16 and \$300.00 if your BAC is .16 or greater. If you refused a blood test, the fee is \$100.00.
- f. You will be ordered to perform forty (40) hours of public service.
- g. You will be ordered to pay restitution for any personal or property damages suffered by other persons as the result of your incident. Restitution does not include costs of prosecution such as laboratory fees and/or the costs of the ARD program.
- h. You will also be ordered to pay ARD program fees and costs and costs of prosecution applicable to your case. Any payments made will be applied first to restitution prior to any fees and costs.
- i. You will not be able to possess or consume alcohol or non-prescribed controlled substances for the entire ARD/DUI probationary period.
- j. You must abide by all federal and state laws and abide by the standard rules and conditions of the Probation.
- k. You may lose your driver's license for up to three (3) months. (See below).

HOW LONG WILL I LOSE MY LICENSE?

Your driver's license suspension will be based on your blood analysis result as set forth below. If you refuse a blood test, the Pennsylvania

Department of Transportation will suspend your license for 12 months for the refusal in addition to any suspension imposed by the Court as a result of your ARD admission.

1. BAC .099 or less = no suspension
2. BAC .10 - .159 = 30 days
3. BAC .16 or greater = 60 days
4. BAC unknown (i.e. refusal) = 60 days
5. Accident with bodily injury and/or property damage = 60 days
6. Drug, Combination of Drugs, or Drugs and Alcohol = 60 days
7. Minor (under the age of 21) = 90 day suspension.

WHAT IF I DRIVE WHILE MY LICENSE IS SUSPENDED?

You will be charged with driving under suspension. This charge has a mandatory jail sentence of sixty (60) days to ninety (90) days and a mandatory \$500.00 fine and loss of license for an additional 12 months. In addition, you will be revoked from the ARD program.

WHEN WILL I LOSE MY DRIVER'S LICENSE?

PennDOT will contact you following your entry into the ARD program to inform you of the date that your license will be suspended.

WHAT IF I AM REVOKED FROM THE PROGRAM?

If you are accepted into the ARD program and violate any of the conditions of that program, you will be revoked from the ARD program. This means that you will be treated as if you were never accepted and will be prosecuted for the original DUI charge. Furthermore, if you are convicted of the DUI charge your license may be suspended for twelve (12) months and you will receive no credit for the time your license was suspended while on ARD. Similarly, you may not be credited for any sums paid in satisfaction of your ARD participation.

WHAT IS A CRN EVALUATION?

CRN stands for the Court Reporting Network evaluation. The law mandates that you must obtain a CRN evaluation from an appropriate agency prior to being placed on ARD. In Adams County the Department of Probation Services located at 525 Boyds School Road, Gettysburg, PA, performs these CRN Evaluations. A referral for a CRN will be sent to Probation Services after your preliminary hearing at the District Justice office. You will be advised in writing of the date and time that your CRN evaluation is to be conducted. You

must attend and complete this evaluation to be placed on the ARD program by the court.

WILL ACCEPTANCE INTO THE ARD PROGRAM GIVE ME A CRIMINAL RECORD?

If you are accepted into the ARD program and successfully comply with all of its conditions, you will not receive a criminal conviction; however, if you are arrested again for Driving Under the Influence within 10 years, you will be treated as a second offender.

If you successfully comply with all ARD conditions and pay off all your financial obligations by the end of the ARD period, your record may be expunged, after ten years. You may request expungement on your own after all financial obligations are satisfied through Clerk of Courts proceedings which may take place after the term of your ARD placement, and a period of ten years has passed after you entered the ARD Program. It is your responsibility to pursue expungement and pay any necessary and/or applicable fees.

WHAT RIGHTS AM I GIVING UP BY ENTERING INTO THE PROGRAM?

In order to be considered for the ARD program, you must waive your right to a preliminary hearing. You also must waive your right to file an Omnibus PreTrial Motion under Pa.R.Crim.P. 578 prior to admission into the ARD program and if you are removed from the ARD program, if applicable. Finally, you must waive your rights to a speedy trial within 365 days from the time of the charge. This is necessary in order to allow trial if you are later revoked from the ARD program.

STIPULATION AND WAIVER

In the event that you are charged with a subsequent DUI offense, the Commonwealth would normally be required to prove the underlying facts of the DUI for which you entered ARD, under existing law. However, as part of entering ARD, you will acknowledge that you in fact committed this DUI, and agree to waive any right to challenge whether this current DUI could be considered a "prior offense" in any future proceeding. You are also agreeing that you will not request that this current DUI charge be expunged for a period of at least ten years.

The Commonwealth also agrees that it will not use your admissions with regard to this present DUI against you, aside from enhancing the penalties/grading of any subsequent DUI charges. If you are removed from the ARD program for any reason whatsoever, the Commonwealth will not use your admissions to the present DUI against you in that matter.

A more thorough explanation of these matters is explained in the Stipulation and Waiver which is attached to the proposed ARD Order and Application.

HOW DO I APPLY FOR THE ARD PROGRAM?

Enclosed with this form is an ARD/DUI application and waiver form. This form must be completed and provided to the Adams County District Attorney's Office seven (7) days prior to your formal arraignment date. If you are accepted into the ARD/DUI program, you may enter the program at your formal arraignment.

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