

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 3119

By: Martin

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Sections 471.6 and 471.9, which relate to  
9 the Oklahoma Drug Court Act; authorizing the  
10 reduction or waiver of court costs, fees and fines  
11 under certain circumstances; and providing an  
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.6, is  
15 amended to read as follows:

16 Section 471.6 A. The drug court judge shall conduct a hearing  
17 as required by subsection E of Section 471.4 of this title to  
18 determine final eligibility by considering:

19 1. Whether or not the offender voluntarily consents to the  
20 program requirements;

21 2. Whether or not to accept the offender based upon the  
22 findings and recommendations of the drug court investigation  
23 authorized by Section 471.4 of this title;

24 3. Whether or not there is a written plea agreement, and if so,  
whether the terms and conditions of the written negotiated plea

1 between the district attorney, the defense attorney, and the  
2 offender are appropriate and consistent with the penalty provisions  
3 and conditions of other similar cases;

4 4. Whether or not there is an appropriate treatment program  
5 available to the offender and whether or not there is a recommended  
6 treatment plan; and

7 5. Any information relevant to determining eligibility;  
8 provided, however, an offender shall not be denied admittance to any  
9 drug court program based upon an inability to pay court costs or  
10 other costs or fees.

11 B. At the hearing to determine final eligibility for the drug  
12 court program, the judge shall not grant any admission of any  
13 offender to the program when:

14 1. The required treatment plan and plea agreement have not been  
15 completed;

16 2. The program funding or availability of treatment has been  
17 exhausted;

18 3. The treatment program is unwilling to accept the offender;

19 4. The offender was ineligible for consideration by the nature  
20 of a violent offense at the time of arrest, and the charge has been  
21 modified to meet the eligibility criteria of the program; or

22 5. The offender is inappropriate for admission to the program,  
23 in the discretion of the judge.

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1 C. At the final eligibility hearing, if evidence is presented  
2 that was not discovered by the drug court investigation, the  
3 district attorney or the defense attorney may make an objection and  
4 may ask the court to withdraw the plea agreement previously  
5 negotiated. The court shall determine whether to proceed and  
6 overrule the objection, to sustain the objection and transfer the  
7 case for traditional criminal prosecution, or to require further  
8 negotiations of the plea or punishment provisions. The decision of  
9 the judge for or against eligibility and admission shall be final.

10 D. When the court accepts the treatment plan with the written  
11 plea agreement, the offender, upon entering the plea as agreed by  
12 the parties, shall be ordered and escorted immediately into the  
13 program. The offender must have voluntarily signed the necessary  
14 court documents before the offender may be admitted to treatment.  
15 The court documents shall include:

16 1. Waiver of the offender's rights to speedy trial;

17 2. A written plea agreement which sets forth the offense  
18 charged, the penalty to be imposed for the offense in the event of a  
19 breach of the agreement, and the penalty to be imposed, if any, in  
20 the event of a successful completion of the treatment program;  
21 provided, however, incarceration shall be prohibited when the  
22 offender completes the treatment program;

23 3. A written treatment plan which is subject to modification at  
24 any time during the program; and

1 4. A written performance contract requiring the offender to  
2 enter the treatment program as directed by the court and participate  
3 until completion, withdrawal, or removal by the court.

4 E. If admission into the drug court program is denied, the  
5 criminal case shall be returned to the traditional criminal docket  
6 and shall proceed as provided for any other criminal case.

7 F. At the time an offender is admitted to the drug court  
8 program, any bail or undertaking on behalf of the offender shall be  
9 exonerated.

10 G. The period of time during which an offender may participate  
11 in the active treatment portion of the drug court program shall be  
12 not less than six (6) months nor more than twenty-four (24) months  
13 and may include a period of supervision not less than six (6) months  
14 nor more than one (1) year following the treatment portion of the  
15 program. The period of supervision may be extended by order of the  
16 court for not more than six (6) months. No treatment dollars shall  
17 be expended on the offender during the extended period of  
18 supervision. If the court orders that the period of supervision  
19 shall be extended, the drug court judge, district attorney, the  
20 attorney for the offender, and the supervising staff for the drug  
21 court program shall evaluate the appropriateness of continued  
22 supervision on a quarterly basis. All participating treatment  
23 providers shall be certified by the Department of Mental Health and  
24 Substance Abuse Services and shall be selected and evaluated for

1 performance-based effectiveness annually by the Department of Mental  
2 Health and Substance Abuse Services. Treatment programs shall be  
3 designed to be completed within twelve (12) months and shall have  
4 relapse prevention and evaluation components.

5 H. The drug court judge shall order the offender to pay court  
6 costs, treatment costs, drug testing costs, a program user fee not  
7 to exceed Twenty Dollars (\$20.00) per month, and necessary  
8 supervision fees, unless the offender is indigent. The drug court  
9 judge shall establish a schedule for the payment of costs and fees.  
10 The cost for treatment, drug testing, and supervision shall be set  
11 by the treatment and supervision providers respectively and made  
12 part of the court's order for payment. User fees shall be set by  
13 the drug court judge within the maximum amount authorized by this  
14 subsection and payable directly to the court clerk for the benefit  
15 and administration of the drug court program. Treatment, drug  
16 testing, and supervision costs shall be paid to the respective  
17 providers. The court clerk shall collect all other costs and fees  
18 ordered. The remaining user fees shall be remitted to the State  
19 Treasurer by the court clerk for deposit in the Department of Mental  
20 Health and Substance Abuse Services' Drug Abuse Education and  
21 Treatment Revolving Fund established pursuant to Section 2-503.2 of  
22 Title 63 of the Oklahoma Statutes. Court orders for costs and fees  
23 pursuant to this subsection shall not be limited for purposes of  
24 collection to the maximum term of imprisonment for which the

1 offender could have been imprisoned for the offense, nor shall any  
2 court order for costs and fees be limited by any term of probation,  
3 parole, supervision, treatment, or extension thereof. Court orders  
4 for costs and fees shall remain an obligation of the offender until  
5 fully paid; provided, however, once the offender has successfully  
6 completed the drug court program, the drug court judge shall have  
7 the discretion to expressly waive all or part of the costs and fees  
8 provided for in this subsection if, in the opinion of the drug court  
9 judge, continued payment of the costs and fees by the offender would  
10 create a financial hardship for the offender. Offenders who have  
11 not fully paid all costs and fees pursuant to court order but who  
12 have otherwise successfully completed the drug court program shall  
13 not be counted as an active drug court participant for purposes of  
14 drug court contracts or program participant numbers.

15 I. Notwithstanding any other provision of law, if the driving  
16 privileges of the offender have been suspended, revoked, cancelled  
17 or denied by the Department of Public Safety and if the drug court  
18 judge determines that no other means of transportation for the  
19 offender is available, the drug court judge may enter a written  
20 order requiring the Department of Public Safety to stay any and all  
21 such actions against the Class D driving privileges of the offender;  
22 provided, the stay shall not be construed to grant driving  
23 privileges to an offender who has not been issued a driver license  
24 by the Department or whose Oklahoma driver license has expired, in

1 which case the offender shall be required to apply for and be found  
2 eligible for a driver license, pass all examinations, if applicable,  
3 and pay all statutory driver license issuance or renewal fees. The  
4 offender shall provide proof of insurance to the drug court judge  
5 prior to the judge ordering a stay of any driver license suspension,  
6 revocation, cancellation, or denial. When a judge of a drug court  
7 enters a stay against an order by the Department of Public Safety  
8 suspending or revoking the driving privileges of an offender, the  
9 time period set in the order by the Department for the suspension or  
10 revocation shall continue to run during the stay.

11 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.9, is  
12 amended to read as follows:

13 Section 471.9 A. When an offender has successfully completed  
14 the drug court program, the criminal case against the offender shall  
15 be:

16 1. Dismissed if the offense was a first felony offense; or

17 2. If the offender has a prior felony conviction, the  
18 disposition shall be as specified in the written plea agreement.

19 B. The final disposition order for a drug court case shall be  
20 filed with the judge assigned to the case, and shall indicate the  
21 sentence specified in the written plea agreement. A copy of the  
22 final disposition order for the drug court case shall also be filed  
23 in the original criminal case file under the control of the court  
24 clerk which is open to the public for inspection. Original criminal

1 case files which are under the control of the court clerk and which  
2 are subsequently assigned to the drug court program shall be marked  
3 with a pending notation until a final disposition order is entered  
4 in the drug court case. After an offender completes the program,  
5 the drug court case file shall be sealed by the judge and may be  
6 destroyed after ten (10) years. The district attorney shall have  
7 access to sealed drug court case files without a court order.

8 C. A record pertaining to an offense resulting in a successful  
9 completion of a drug court program shall not, without the offender's  
10 consent in writing, be used in any way which could result in the  
11 denial of any employee benefit.

12 D. Successful completion of a drug court program shall not  
13 prohibit any administrative agency from taking disciplinary action  
14 against any licensee or from denying a license or privilege as may  
15 be required by law.

16 E. When the offender has successfully completed the drug court  
17 program, the drug court judge shall have the discretion to expressly  
18 waive all or part of the court costs and fees, driver license  
19 reinstatement fees, if applicable, and fines associated with the  
20 criminal case if, in the opinion of the drug court judge, continued  
21 payment of the court costs, fees and fines by the offender would  
22 create a financial hardship for the offender.

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SECTION 3. This act shall become effective November 1, 2016.

55-2-8362            GRS            12/30/15