

1 **SENATE FLOOR VERSION**

2 February 27, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 249

5 By: Thompson

6 [**drug courts - authorization of drug court programs**
7 **- drug court funds - ~~effective date~~ -**
8 **emergency]**

9
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as
12 amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2018,
13 Section 471.1), is amended to read as follows:

14 Section 471.1. A. For purposes of ~~this act~~ the Oklahoma Drug
15 Court Act, "drug court", "drug court program" or "program" means an
16 immediate and highly structured judicial intervention process for
17 substance abuse treatment of eligible offenders which expedites the
18 criminal case, and requires successful completion of the plea
19 agreement.

20 B. Each district court of this state is authorized to establish
21 a drug court program pursuant to the provisions of ~~this act~~ the
22 Oklahoma Drug Court Act, subject to availability of funds. Juvenile
23 drug courts may be established based upon the provisions of ~~this act~~
24 the Oklahoma Drug Court Act; provided, however, juveniles shall not

1 be held, processed, or treated in any manner which violates any
2 provision of Title 10A of the Oklahoma Statutes.

3 C. Drug court programs shall not apply to any violent criminal
4 offense. Eligible offenses may further be restricted by the rules
5 of the specific drug court program. Nothing in ~~this act~~ the
6 Oklahoma Drug Court Act shall be construed to require a drug court
7 to consider every offender with a treatable condition or addiction,
8 regardless of the fact that the controlling offense is eligible for
9 consideration in the program. Traditional prosecution shall be
10 required where an offender is determined not appropriate for the
11 drug court program.

12 D. Drug court programs shall require a separate judicial
13 processing system differing in practice and design from the
14 traditional adversarial criminal prosecution and trial systems.
15 Whenever possible, a drug court team shall be designated consisting
16 of a judge to administer the program, a district attorney, a defense
17 attorney, and other persons designated by the drug court team who
18 shall have appropriate understanding of the goals of the program and
19 of the appropriate treatment methods for the various conditions.
20 The assignment of any person to the drug court team shall not
21 preclude the assigned person from performing other duties required
22 in the course of their office or employment. The chief judge of the
23 judicial district, or if the district has more than one chief judge
24 than the presiding judge of the Administrative Judicial District,

1 shall designate one or more judges to administer the drug court
2 program. The assignment of any judge to a drug court program or the
3 designation of a drug court docket shall not mandate the assignment
4 of all substance abuse related cases to the drug court docket or the
5 program; however, nothing in ~~this act~~ the Oklahoma Drug Court Act
6 shall be construed to preclude the assignment of all criminal cases
7 relating to substance abuse or drug possession as provided by the
8 rules established for the specific drug court program.

9 E. When a drug court program is established, the arresting
10 officer shall file the criminal case record for potentially eligible
11 offenders with the district attorney within four (4) days of the
12 arrest. The district attorney shall file an information in the case
13 within twenty-four (24) hours of receipt of the criminal case record
14 when the offender appears eligible for consideration for the
15 program. The information may be amended as necessary when an
16 offender is denied admittance into the drug court program or for
17 other purposes as provided in Section 304 of this title. Any person
18 arrested upon a warrant for his or her arrest shall not be eligible
19 for the drug court program without the approval of the district
20 attorney. Any criminal case which has been filed and processed in
21 the traditional manner shall be cross-referenced to a drug court
22 case file by the court clerk, if the case is subsequently assigned
23 to the drug court program. The originating criminal case file shall
24 remain open to public inspection. The judge shall determine what

1 information or pleadings are to be retained in the drug court case
2 file, which shall be closed to public inspection.

3 F. The court may request assistance from the Department of
4 Mental Health and Substance Abuse Services which shall be the
5 primary agency to assist in developing and implementing a drug court
6 program or from any state or local agency in obtaining the necessary
7 treatment services which will assure maximum opportunity for
8 successful treatment, education, and rehabilitation for offenders
9 admitted to the program. All participating state and local agencies
10 are directed to coordinate with each other and cooperate in
11 assisting the district court in establishing a drug court program.

12 G. Each drug court program shall ensure, but not be limited to:

- 13 1. Strong linkage between participating agencies;
- 14 2. Access by all participating parties of a case to information
15 on the progress of the offender;
- 16 3. Vigilant supervision and monitoring procedures;
- 17 4. Random substance abuse testing;
- 18 5. Provisions for noncompliance, modification of the treatment
19 plan, and revocation proceedings;
- 20 6. Availability of residential treatment facilities and
21 outpatient services;
- 22 7. Payment of court costs, treatment costs, supervision fees,
23 and program user fees by the offender;

24

1 8. Methods for measuring application of disciplinary sanctions,
2 including provisions for:

- 3 a. increased supervision,
- 4 b. urinalysis testing,
- 5 c. intensive treatment,
- 6 d. short-term confinement not to exceed five (5) days,
- 7 e. recycling the offender into the program after a
8 disciplinary action for a minimum violation of the
9 treatment plan,
- 10 f. reinstating the offender into the program after a
11 disciplinary action for a major violation of the
12 treatment plan, and
- 13 g. revocation from the program; and

14 9. Methods for measuring performance-based effectiveness of
15 each individual treatment provider's services.

16 H. All drug court programs shall be required to keep reliable
17 data on recidivism, relapse, restarts, sanctions imposed, and
18 incentives given.

19 I. Except as otherwise provided by law, all funds received by a
20 drug court, in its capacity as a drug court, shall be credited to
21 and accounted for in the county treasurer's office in a special cash
22 fund to be known as the "Drug Court Fund". Each drug court fund
23 shall be a continuing fund, not subject to fiscal year limitations,
24 and shall be dedicated to the operation of the drug court as

1 authorized by law. The expenditures of any funds received by a drug
2 court program and deposited with the county treasurer shall be made
3 only upon sworn itemized claims approved by the judge of the drug
4 court or other county employee designated by the drug court judge or
5 drug court team, filed with the county treasurer and paid by cash
6 voucher drawn by the county treasurer from the funds.

7 J. Nothing in this section shall prohibit any county from
8 establishing a drug court for misdemeanor offenses. Such
9 misdemeanor drug courts shall follow the rules and regulations of
10 felony drug courts except that the penalty for revocation shall not
11 exceed one (1) year in the county jail or the maximum penalty for
12 the misdemeanor allowed by statute, whichever is less. The
13 Department of Mental Health and Substance Abuse Services shall
14 provide technical assistance to the counties that establish
15 misdemeanor drug courts.

16 ~~**SECTION 2. This act shall become effective July 1, 2019.**~~

17 ~~**SECTION 3. It being immediately necessary for the preservation**~~
18 ~~**of the public peace, health or safety, an emergency is hereby**~~
19 ~~**declared to exist, by reason whereof this act shall take effect and**~~
20 ~~**be in full force from and after its passage and approval.**~~

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
22 February 27, 2019 - DO PASS AS AMENDED
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