

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 645

By: Wilkerson and Littlefield
of the Senate

and

Hilliard of the House

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; creating the Accelerated Prosecution Program; providing short title; defining term; authorizing district courts to participate; stating eligible offenses; authorizing certain further restriction of offenses; construing authority of court; requiring separate judicial processing; providing for administration by judge; requiring court clerk to cross-reference certain criminal case to AP case; requiring certain confidentiality; authorizing certain assistance and cooperation from state agencies; providing certain components of program; requiring data be kept; stating initial considerations; directing the sheriff or designee to make initial eligibility determination; directing certain action and form be presented; providing procedure to request consideration;

removing limitations of court for certain consideration; providing for hearing and notice; directing the district attorney to make certain determinations; providing for certain objections; providing for certain investigation and testing; stating certain contents of investigation; authorizing other evaluations; providing for certain treatment plan; requiring certification of all providers; requiring certain report following investigation; requiring certain review and agreements; providing for mediation; stating time for certain hearings; defining term; prohibiting use of certain information; authorizing admissibility of certain information; directing certain photographic records be kept; stating certain prohibitions to admission; providing for denial of acceptance; granting time to withdraw the plea; requiring certain exoneration of bail; stating program duration; authorizing certain fees; providing for collection of costs and fees; construing validity of certain order for purpose of collections; directing certain progress reports; providing procedure to review the offender; directing notice and hearing; excepting the district attorney from routine progress hearings; granting certain access to court information; directing progressively increasing disciplinary and incentive sanctions; providing for certain revocation notice and hearing; authorizing modification of the treatment plan; requiring certain consultation for certain modification; prohibiting modification of written punishment

agreement; authorizing program as intermediate sanction for parolee or probationer under certain condition; providing for certain action upon completion or failure to complete the program; directing certain case files be sealed and destroyed; granting certain access to sealed files; construing use of certain records for administrative agency or employee benefits; directing certain state agencies to promulgate rules and joint instruments; directing the Administrative Office of the Judiciary to promulgate certain rules and forms; directing the Department of Mental Health and Substance Abuse Services to provide certain technical assistance for certain programs; amending 20 O.S. 1991, Section 91.2, which relates to court dockets; providing for establishment of certain docket; providing for judicial determination of information and pleadings that are to be maintained in a confidential case file that is not open to public inspection; providing that originating criminal case file shall be open to public inspection; amending 63 O.S. 1991, Section 2-417, which relates to "Drug Abuse Education Revolving Fund"; authorizing use of funds for treatment; amending 63 O.S. 1991, Section 2-503.2, which relates to Drug Abuse Education and Treatment Fund; changing name of fund to revolving fund; prohibiting order to suspend certain assessment; providing for method of payment; authorizing contempt of court for failure to comply; construing duration of certain order; removing authority of the Department of Mental

Health and Substance Abuse Services to administer certain funds; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 471 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Section 1 through 8 of this act shall be known and may be cited as the "Accelerated Prosecution Program".

For purposes of this act, "Accelerated Prosecution Program" or "AP program" means an immediate and highly structured judicial intervention process for treatment of eligible offenders which expedites the criminal case, and requires successful completion of the plea agreement in lieu of incarceration.

B. The district courts of this state are hereby authorized to establish an Accelerated Prosecution Program (AP) pursuant to the provisions of this act, subject to availability of funds.

C. Accelerated Prosecution Programs shall not apply to any violent criminal offenses. Eligible offenses may further be restricted by the rules of the specific program. Nothing in this act shall be construed to require the court to consider every offender with a treatable condition or addiction, regardless of whether the offense is eligible for consideration in a AP program.

D. An AP program shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems. Whenever possible, the court shall designate one or more judges to administer

the program who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions. The assignment of a judge to administer an AP program shall not preclude the assigned judge or any assigned staff from performing other judicial functions or work of the district court, nor shall the assignment of a judge to an AP program mandate the assignment of all substance abuse cases to the AP docket; however nothing in this act shall be construed to preclude the court from assigning all cases relating to substance abuse or drug possession. For purposes of this act the district attorney is required to file an information within four (4) days of the arrest and before any plea bargaining begins. Any criminal case which has been filed and processed in the traditional manner shall be cross-referenced by the court clerk, if the case is subsequently assigned to the AP docket. All AP cases and dockets shall be confidential and not open to the public for inspection due to the treatment components of the program and the confidential nature of the medical reports.

E. The court may request assistance from any state or local agency in developing and implementing AP programs and services which will assure maximum opportunity for successful treatment, education, and rehabilitation for offenders admitted to the program. All state and local agencies are directed to coordinate with each other and cooperate in assisting the court in establishing an Accelerated Prosecution program.

F. Each AP program shall ensure, but not be limited to:

1. Strong linkage between participating agencies;
2. Access by all participating parties to all information on the offender's progress;
3. Vigilant supervision and monitoring procedures;
4. Random substance abuse testing;
5. Provisions for noncompliance, modification of the treatment plan, and revocation proceedings;

6. Availability of residential treatment facilities and outpatient services;

7. Payment of court costs, court monitoring fees, and program user fees;

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

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

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

G. All AP programs shall be required to keep reliable data on recidivism, relapse, restarts, sanctions imposed, and incentives given.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The initial opportunity for consideration of an offender in an Accelerated Prosecution Program (AP) shall occur within four (4) days after the arrest and incarceration of the offender in the county jail, or if an immediate bond release program is available through the jail, the initial opportunity for consideration shall occur in conjunction with that bond release program. The following

information shall be initially reviewed by the sheriff or a designee:

1. The offender's arrest or charge does not involve a crime of violence against any person, unless there is a specific AP program in the jurisdiction designed to address domestic violence and the offense is related to domestic violence;

2. The offender has no prior felony conviction in this state for a violent offense, except as may be allowed in a domestic violence AP program;

3. The offender's arrest or charge does not involve trafficking or manufacture of a controlled dangerous substance;

4. The arrest or charge is not based upon any violent offense;

5. The offender has committed a felony offense; and

6. The offender:

- a. admits to having a substance abuse addiction,
- b. appears to have a substance abuse addiction, or
- c. the arrest or charge is based upon an offense for which there exists a local AP program to treat the offender.

B. If it appears to the sheriff that the offender is not eligible for any AP program in the jurisdiction after review of the information in subsection A of this section, the sheriff shall take no further action. If it appears to the sheriff that the offender may be eligible for an AP program after review of the information in subsection A of this section, the sheriff shall present the offender with an eligibility form to be voluntarily completed by the offender which describes the AP program for which he or she may be eligible, including the following:

1. A full description of the AP program investigation;

2. A general explanation of the roles and authority of the supervising staff, the district attorney, the defense attorney, the treatment provider, the offender, and the court in an AP program;

3. A clear statement that the court may decide after a hearing not to consider the offender for the program and that the offender may have to stand trial for the alleged offense;

4. A clear statement that the offender is required to enter a guilty plea as part of a written plea agreement;

5. A clear statement that the plea agreement will specify the charge to be entered in exchange for the guilty plea or a plea of nolo contendere and will state any penalty to be imposed for the offense both in the event of a successful completion of the AP program, and in the event of a failure to complete the AP program;

6. A clear statement that the offender must voluntarily agree to:

- a. waive the right to a speedy trial,
- b. waive the right to a preliminary hearing,
- c. the terms and conditions of a treatment plan, and
- d. sign a performance contract with the court;

7. A clear statement that the offender if accepted into the AP program may not be incarcerated for the offense in a state correctional institution upon successful completion of the treatment program;

8. A clear statement that during participation in the AP program should the offender:

- a. fail to comply with the terms of the agreements,
- b. be convicted of a misdemeanor which reflects a propensity for violence, or
- c. be convicted of any felony offense,

the offender may be required, after a court hearing, to be revoked from the AP program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

9. An explanation of the criminal record retention and disposition resulting from participation in an AP program following successful completion of the program.

C. 1. The defendant may request consideration for an AP program by:

- a. signing the completed form and returning it to the sheriff or designee to be filed with the court while incarcerated, or
- b. after release, signing the completed form and filing it with the court prior to or at the time of either initial appearance or arraignment.

2. Any offender desiring legal consultation prior to signing or completing the form for an accelerated prosecution consideration shall be provided legal counsel by the public defender of the county, if the offender is indigent, or allowed to consult with private legal counsel.

3. Nothing contained in the provisions of this subsection shall prohibit a court from considering any offender for an AP program at any time prior to sentencing, or upon a violation of parole or probation conditions.

D. When an offender has made a voluntary request to be considered for an AP program on an appropriate form, an initial hearing shall be set before the court. The hearing shall be not less than three (3) business days nor more than five (5) business days after the date of the filing of the request form. Notice shall be given to the district attorney and to the public defender by the court, and the offender shall be required to notify any private legal counsel of the date and time of the hearing.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 473 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. At the initial hearing for consideration of an offender for the Accelerated Prosecution Program (AP), the district attorney shall determine whether or not the offender has been admitted to an AP program within the preceding five (5) years, and whether or not

there is any statutory preclusion, other prohibition, or program limitations applicable to considering the offender for the program. The district attorney may object to the consideration of the offender for an AP program based upon these findings, either in writing or in open court, but shall not be allowed to object to consideration of the offender for other reasons at the initial hearing.

B. 1. If the offender voluntarily consents to be considered for an AP program, has signed and filed the required form requesting consideration, and no objection has been made by the district attorney as provided in subsection A of this section, the court may:

- a. refer the offender for an AP investigation,
- b. set a date for a hearing to determine final eligibility for admittance into an AP program, or
- c. refer the offender for an AP investigation and set a date for a hearing to determine final eligibility for admittance into the program.

2. If the court sustains any objection of the district attorney for consideration of an offender for the program, or determines the offender to be initially not eligible for any reason, in the discretion of the court, the court shall deny consideration of the offender's request for participation in the AP program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 474 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When directed by the court, the supervising staff for an Accelerated Prosecution (AP) program shall make an investigation of the offender under consideration to determine whether or not the offender is a person who:

1. Would benefit from an AP program; and
2. Is appropriate for an AP program offered in the jurisdiction.

B. The investigation shall be conducted through a standardized screening test and personal interview. A more comprehensive assessment may take place at the time the offender enters a treatment program and may take place at any time after placement in an AP program. The AP investigation shall determine the original treatment plan which the offender will be required to follow and any subsequent assessments or evaluations by a treatment provider shall be used to determine modifications needed to the original treatment plan. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention components. The investigation shall include, but not be limited to, the following information:

1. The person's age and physical condition;
2. Employment and military service records;
3. Educational background and literacy level;
4. Community and family relations;
5. Prior and current drug and alcohol use;
6. Mental health and medical treatment history, including substance abuse treatment history;
7. Demonstrable motivation; and
8. Other mitigating factors.

C. The investigation shall be conducted after the initial hearing for consideration and before the hearing for final determination of eligibility for an AP program. When an offender is appropriate for admittance to an AP program, the supervising staff shall make a recommendation of the community treatment program or programs that are available in the jurisdiction and which would benefit the offender and accept the offender. The investigation

findings and recommendations for program placement shall be reported to the court, the district attorney, the offender, and the defense attorney prior to the next scheduled hearing.

D. The district attorney and the defense attorney for the offender shall independently review the findings and recommendations of the AP investigation staff. Both the district attorney and the defense attorney shall agree to the recommended treatment plan without alterations of the plan and shall negotiate the terms of the written plea with punishment provisions before the scheduled hearing date for determining final eligibility. In the event the district attorney and the defense attorney are unable to agree on the terms of the written plea or punishment provisions, a professional mediator may be selected to mediate. The resulting agreement, if any, shall be presented to the court for consideration. The punishment provisions must emphasize reparation to the victim, community and state.

E. The hearing to determine final eligibility shall be set not less than three (3) business days nor more than seven (7) business days from the date of the initial hearing for consideration.

F. For purposes of this act, "supervising staff" means a Department of Corrections employee assigned to monitor offenders assigned to the AP program, a community provider assigned to monitor offenders in the AP program, a state or local agency representative or a certified treatment provider participating in the AP program, or a person designated by the judge to perform AP investigations.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 475 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. 1. Any statement, or any information procured therefrom, made by the offender to any supervising staff, which is made during the course of any Accelerated Prosecution Program (AP) investigation conducted by the supervising staff pursuant to Section 4 of this

act, and any report of the supervising staff's findings and recommendations to the court, the district attorney, or the defense counsel shall not be admissible in the criminal case pending against the defendant.

2. Any statement, or any information procured therefrom, with respect to the specific offense for which the offender was arrested or is charged, which is made to any supervising staff subsequent to the granting of admission of the offender to an AP program, shall not be admissible in the pending criminal case nor shall such be grounds for the revocation of an offender from the program.

3. In the event that an offender is denied admission to an AP program or is subsequently revoked from the program, any information gained from the AP investigation, any statements or information divulged during the AP investigation or any treatment session shall not be used in the sentencing of the offender for the original criminal offense.

4. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

B. 1. The offender, as consideration for entering an AP program, must consent to a full and complete photographic record of property which was to be used as evidence in the pending criminal case. The photographic record shall be competent evidence of such property and admissible in any criminal action or proceeding as the best evidence.

2. After the photographic record is made, the property shall be returned as follows:

- a. property, except that which is prohibited by law, shall be returned to its owner after proper verification of title,

- b. the return to the owner shall be without prejudice to the state or to any person who may have a claim against the property, and
- c. when a return is made to the owner, the owner shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the person in charge of the property at the police department or sheriff's office.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 476 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The judge having authority for an Accelerated Prosecution Program (AP) shall conduct a hearing as required by subsection E of Section 4 of this act to determine final eligibility by considering:

- 1. Whether or not the offender voluntarily consents to the program requirements;
- 2. Whether or not to accept the offender based upon the findings and recommendations of the investigation authorized by Section 4 of this act, if an investigation was conducted pursuant to court order;
- 3. Whether the terms and conditions of the written negotiated plea between the district attorney, the defense attorney, and the offender are appropriate and consistent with the penalty provisions and conditions of other similar cases;
- 4. Whether or not there is an appropriate program available to the offender; and
- 5. Any information relevant to determining eligibility; provided, however, an offender shall not be denied admittance to any program based upon an inability to pay court costs or program user fees.

B. 1. At the hearing to determine final eligibility, the court shall not grant any admission of any offender when:

- a. the program funding or availability of treatment has been exhausted,
- b. the program is unwilling to accept an offender,
- c. the offender was ineligible by the nature of a violent offense at the time of arrest, and the charge was modified to meet the eligibility criteria of a program, or
- d. the offender is inappropriate for admission to the program, in the discretion of the judge.

2. The decision of the judge shall be final.

C. At the hearing, if evidence is presented that was not discovered by the investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the matter for traditional criminal prosecution, or to require further negotiations of the plea or punishment provisions.

D. If the court accepts the treatment plan with the written plea agreement, the offender shall be ordered and escorted immediately into the program. The offender must have voluntarily signed the necessary court documents before the offender shall be placed in the program. The court documents shall include:

1. Waiver of the offender's rights to speedy trial;
2. Agreement for entering a plea of guilty or nolo contendere to the original offense or a lesser included offense, and written agreement which sets forth the offense to be charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program; provided, however, incarceration shall be prohibited when the offender completes the treatment program;

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

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

E. If admission into an AP program is denied, the offender's case shall be returned to the traditional criminal docket and shall proceed as provided for any other criminal case.

F. The offender shall have fifteen (15) days following the court order admitting the offender into the program to withdraw his or her plea and proceed with traditional criminal prosecution and sentencing.

G. At the time an offender is admitted to an AP program, any bail or undertaking on behalf of the offender shall be exonerated.

H. The period of time during which an offender may participate in the active treatment portion of an AP program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following treatment.

I. The court shall order the offender to pay court costs, program costs, a user fee, and supervision fees, unless the offender is indigent. The court shall establish the schedule for the payment of costs and fees, and the amount shall be set by the treatment provider and supervision provider for their respective services. User fees shall be set by the court and payable directly to the court for administering the program. Treatment and supervision costs shall be paid to the respective providers. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall court order for costs and fees be limited by any term of probation, parole, treatment, or extension thereof. Court orders for costs and

fees shall remain an obligation of the offender with state supervision until fully paid.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 477 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The judge shall make all judicial decisions concerning each Accelerated Prosecution (AP) case and shall require progress reports and a periodic review of each offender during his or her period of participation in the program or for purposes of collecting costs and fees after completion of the treatment program. Reports from the treatment providers and the supervising staff shall be presented to the judge.

B. Upon the written or oral motion of the treatment provider, the district attorney, the defense attorney, the defendant, or the supervising staff, the court shall set a date for a hearing to review the offender, the treatment plan, and the provisions of the performance contract. Notice shall be given to the offender and the other parties participating in the case three (3) days before the hearing may be held.

C. The court may establish a regular schedule for progress hearings for any offender. The district attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party.

D. The treatment provider, the supervising staff, the district attorney, and the defense attorney shall be allowed access to all information in the offender's case file and all information presented to the judge at any periodic review or progress hearing.

E. The judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process. The judge shall accomplish court monitoring and accountability by ordering progressively increasing sanctions or providing incentives, rather than removing the offender from the

program when relapse occurs, except when the offender's conduct requires revocation from the program. Any revocation from the program shall require notice to the offender and other participating parties in the case and a revocation hearing. At the hearing, if the offender is found to have violated the conditions of the agreement and other sanctions have been insufficient to gain compliance, the offender shall be sentenced for the offense as provided in the plea agreement.

F. Upon application of any party to the case, the judge may modify a treatment plan at any hearing when it is determined that the treatment is not benefiting the offender. The primary objective of the court in monitoring the progress of the offender and the treatment plan shall be to keep offenders in treatment for a sufficient time to change behaviors and attitudes. Modification of treatment plans requires a consultation with the treatment provider, supervising staff, district attorney, and the defense attorney in open court.

G. The judge shall be prohibited from amending the written plea agreement after an offender has been admitted to the program. Nothing in this provision shall be construed to limit the authority of the judge to remove an offender from the program and impose the required punishment provided in the plea agreement after application, notice, and hearing.

H. An Accelerated Prosecution program may be utilized as an intermediate sanction for violation of conditions of parole, or in cases for which offenders have been tried for an eligible offense and are given either a deferred or suspended sentence with conditions of supervision and have violated such conditions. The judge shall not order an offender into treatment within the scope of an AP program without prior approval from the designated AP judge, if any. Any judge having a criminal case where accelerated prosecution processing appears to be more appropriate for the

offender, may request a review of the case by the district attorney and the defense attorney for an AP consideration. If both the district attorney and the defense attorney or offender agree, the case may be transferred to the AP program with the approval of a designated AP judge. After a case has been transferred it shall continue with a designated AP judge until otherwise terminated from the program. The offenders whose cases have been transferred from another court docket to the AP docket shall be required to have an AP investigation and complete the AP process prior to placement in any treatment program.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 478 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. If an offender has completed the Accelerated Prosecution Program (AP), the criminal charges pending against the defendant shall be dismissed if the offense was a first felony offense. For any second or subsequent felony offender, the criminal charges shall be disposed of as specified in the written plea agreement; provided, no plea agreement shall include a term of imprisonment upon completion of an AP program.

B. The final disposition order for an AP case shall be filed with the judge assigned to the case, and shall indicate the sentence specified in the written plea agreement. The final disposition order for the AP case shall be cross-referenced to the original criminal case file under the control of the court clerk which is open to the public for inspection. Original criminal case files which are under the control of the court clerk and which are subsequently assigned to the AP program shall be marked with a pending notation until a final disposition order is entered in the AP case. After an offender completes an AP program, the case file shall be sealed by the judge and may be destroyed after ten (10)

years. The district attorney shall have access to all sealed AP case files without a court order.

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

D. Successful completion of an AP program shall not prohibit any administrative agency from taking disciplinary action against any licensee or from denying a license or privilege as may be required by law.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 479 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this act, the following state agencies shall jointly develop a standardized testing instrument with an appropriate scoring device for use by all the district courts in this state in implementing an Accelerated Prosecution Program, pursuant to Sections 1 through 8 of this act:

1. The Department of Corrections;
2. The Administrative Office of the Courts;
3. The Department of Mental Health and Substance Abuse Services;
4. The State Department of Health;
5. The State Department of Education; and
6. The Oklahoma Department of Vocational and Technical Education.

B. The Administrative Office of the Courts shall promulgate rules, procedures, and forms necessary to implement Accelerated Prosecution programs pursuant to the provisions of Sections 1 through 8 of this act to ensure statewide uniformity in procedures and forms. The Department of Mental Health and Substance Abuse Services is directed to develop a training and implementation manual

for Accelerated Prosecution programs with the assistance of the State Department of Health, the State Department of Education, the Department of Corrections, and the Administrative Office of the Courts. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the courts in implementing Accelerated Prosecution programs, and shall promulgate rules as necessary to comply with the obligations of this act.

SECTION 10. AMENDATORY 20 O.S. 1991, Section 91.2, is amended to read as follows:

Section 91.2 A. To facilitate the trial and disposition of cases, actions filed in the district court shall be assigned to various dockets by the clerk of the court ~~under~~ pursuant to the direction and supervision of the presiding judge of the district. Until changed by order of the Supreme Court, only the following dockets are established: a civil docket, a criminal docket, a traffic docket, a probate docket, a juvenile and family relations docket, and a small claims docket.

B. Whenever a district court establishes an Accelerated Prosecution Program (AP) pursuant to the provisions of Sections 1 through 8 of this act, the judge having authority over the program shall cause to be established an Accelerated Prosecution docket. In those cases assigned to the AP docket, the judge shall determine what information and/or pleadings are to be maintained in a confidential case file which shall be closed to public inspection. The originating criminal case file shall remain open to public inspection. Nothing in this section shall prohibit the district attorney or the victim-witness coordinator from advising any victim regarding the progress and disposition of an AP case.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 2-417, is amended to read as follows:

Section 2-417. There is hereby created in the State Treasury a revolving fund for the Board of Education to be designated the "Drug

Abuse Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fines collected pursuant to the Trafficking in Illegal Drugs Act, Section 2-414 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board of Education for drug abuse education and treatment programs. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 12. AMENDATORY 63 O.S. 1991, Section 2-503.2, is amended to read as follows:

Section 2-503.2 A. Every person convicted of a violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, ~~must~~ or the Trafficking In Illegal Drugs Act, Section 2-414 et seq. of this title, shall be assessed for each offense a sum of not less than ~~Five Hundred Dollars (\$500.00)~~ One Hundred Dollars (\$100.00) nor more than Three Thousand Dollars (\$3,000.00). The assessment ~~is~~ shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this section shall not be subject to any order of suspension. The court shall order either a lump sum payment or establish a payment schedule. Failure of the offender to comply with the payment schedule shall be considered contempt of court. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

B. The assessment provided for in subsection A of this section ~~must~~ shall be collected as provided for collection of restitution costs ~~and probation and parole fees and must.~~ When assessment

payments are collected pursuant to court order the funds shall be forwarded to the Department of Mental Health and Substance Abuse Services for deposit in the Drug Abuse Education and Treatment Revolving Fund, which.

C. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Drug Abuse Education and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The Department of Mental Health and Substance Abuse Services shall administer expenditures from the fund, and shall consist of assessments collected pursuant to this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for treatment of substance abusing offenders pursuant the Accelerated Prosecution Program, Section 1 et seq. of this act and substance abuse prevention and education. Expenditures may from said fund shall be made only for drug abuse education, prevention, and treatment services upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Monies expended from the this fund may shall not supplant other local, state, or federal funds.

SECTION 13. This act shall become effective July 1, 1997.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-7260

SD