

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2403

By: Young

COMMITTEE SUBSTITUTE

An Act relating to juveniles; creating the Oklahoma Juvenile Drug Court program; establishing eligibility for juvenile drug court; providing for initial hearing; establishing juvenile drug court investigation; establishing final eligibility hearing; providing for acceptance into program; defining duration of participation; establishing costs and fees; amending 22 O.S. 2001, Section 471.10, which relates to Oklahoma Drug Court Act; adding Juvenile Drug Court Program; providing for codification; and providing an effective date.

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 472.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Juvenile Drug Court Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Juvenile Drug Court Act:

1. "Juvenile drug court", "juvenile drug court program" or "program" means an immediate and highly structured judicial intervention process for substance abuse treatment of eligible juvenile offenders which expedites the criminal case and requires the successful completion of an adjudication in lieu of incarceration of the juvenile offenders;

2. "Juvenile offender" means a child as that term is defined by the Oklahoma Juvenile Code; and

3. "Supervising staff" means an Office of Juvenile Affairs employee assigned to monitor offenders in the juvenile drug court program, a community provider assigned to monitor offenders in the program, a state or local agency representative or a certified treatment provider participating in the program, or a person designated by the judge to perform juvenile drug court investigations.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. 1. At the initial hearing for consideration of a juvenile offender for a juvenile drug court program, the district judge shall determine whether:

- a. the juvenile offender has been admitted to the program within the preceding five (5) years,
- b. any statutory preclusion, other prohibition, or program limitation exists and is applicable to considering the offender for the program, and
- c. the juvenile offender's parents, guardian, or custodian will actively support the juvenile offender's participation in the program.

2. The district attorney may object to the consideration of an offender for the juvenile drug court program at the initial hearing.

B. If the offender voluntarily consents to be considered for the juvenile drug court program, and has signed and filed the required form requesting consideration, the court may refer the offender for a juvenile drug court investigation as provided in Section 4 of this act, and set a date for a hearing to determine final eligibility for admittance into the program.

C. Upon denial for consideration in the juvenile drug court program at the initial hearing, the criminal case shall proceed in the traditional manner.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.4 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When directed by the juvenile drug court judge, the supervising staff for the juvenile drug court program shall make an investigation of the juvenile offender under consideration to determine whether the offender is a person who:

1. Would benefit from the juvenile drug court program; and
2. Is otherwise appropriate for the juvenile drug court program.

B. 1. The juvenile drug court investigation shall be conducted through a standardized screening test, personal interview, and home study. A more comprehensive assessment may take place at the time the offender enters the treatment portion of the program and may take place at any time after placement in the juvenile drug court program.

2. The investigation shall determine the original treatment plan which the offender will be required to follow if admitted to the program. Any subsequent assessments or evaluations by the treatment provider, if the offender is admitted to the program, may be used to determine modifications needed to the original treatment plan.

3. The investigation shall include, but not be limited to, the following information:

- a. the juvenile offender's age and physical condition,
- b. employment,
- c. educational background and literacy level,
- d. community and family relations,
- e. prior and current drug and alcohol use,

- f. mental health and medical treatment history, including substance abuse treatment history,
- g. demonstrable motivation,
- h. the willingness of the juvenile offender's parents, guardian, or custodian to actively support the juvenile offender's participation in the program, and
- i. other mitigating or aggravating factors.

C. 1. The juvenile drug court investigation shall be conducted after the initial hearing and before the hearing for final determination of eligibility for the juvenile drug court program.

2. When a juvenile offender is determined to be appropriate for admittance to the program, the supervising staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the offender and accept the juvenile offender.

3. Prior to the next scheduled hearing, the investigation findings and recommendations for program placement shall be reported to the juvenile drug court judge, the district attorney, the offender, and the defense attorney.

D. 1. The district attorney and the defense attorney for the juvenile offender shall independently review the findings and recommendations of the juvenile drug court investigation report.

2. For a juvenile offender to remain eligible for consideration in the program, both the district attorney and the defense attorney must accept the recommended treatment plan and shall negotiate the terms of the written plea agreement with all punishment provisions specified before the scheduled hearing date for determining final eligibility.

3. Upon failure of the district attorney and defense attorney to negotiate the written adjudication, the criminal case shall be withdrawn from the juvenile drug court program and processed in the traditional manner.

4. The punishment provisions of the written adjudication shall emphasize reparation to the victim, community, and state.

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.5 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The juvenile drug court judge shall conduct a hearing as required by Section 471.6 of Title 22 of the Oklahoma Statutes to determine final eligibility of the juvenile offender for the juvenile drug court program by considering:

1. Whether the offender has voluntarily consented to the program requirements;

2. The findings and recommendations of the juvenile drug court investigation authorized by Section 471.4 of Title 22 of the Oklahoma Statutes;

3. Whether there is a written adjudication agreement, and if so, whether the terms and conditions of the written negotiated adjudication among 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 there is an appropriate treatment program available to the offender and whether there is a recommended treatment plan; and

5. Any information relevant to determining eligibility. An offender shall not be denied admittance to any juvenile drug court program based upon an inability to pay court costs or other costs or fees.

B. At the hearing to determine final eligibility of the juvenile offender for the juvenile drug court program, the judge shall not grant an offender admission to the program if:

1. The required treatment plan and adjudication agreement have not been completed;

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

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

4. The juvenile offender was ineligible for consideration because of the nature of the offense at the time of arrest, and the charge was modified to meet the eligibility criteria of the program; or

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

C. The judge shall require that the parents, guardian, or custodian of the juvenile offender actively support the juvenile offender's participation in the program.

D. 1. At the final eligibility hearing, if evidence is presented that was not discovered by the juvenile drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the adjudication agreement previously negotiated.

2. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional criminal prosecution, or to require further negotiations of the adjudication or punishment provisions. The decision of the judge for or against eligibility and admission shall be final.

E. When the court accepts the treatment plan with the written adjudication agreement, the juvenile offender, upon entering the plea as agreed by the parties, shall be ordered and escorted immediately into the program. The juvenile offender must have

voluntarily signed the necessary court documents before the offender may be admitted to treatment. The court documents shall include:

1. Waiver of the right of the offender to a speedy trial;
2. A written adjudication agreement which sets forth the offense 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. 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 juvenile offender to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court.

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

G. At the time a juvenile offender is admitted to the juvenile drug court program, any bail or undertaking on behalf of the offender shall be exonerated.

H. 1. The period of time during which a juvenile offender may participate in the active treatment portion of the juvenile drug court 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 the treatment portion of the program.

2. 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 and evaluation components.

I. 1. The juvenile drug court judge shall order the juvenile offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed Twenty Dollars (\$20.00) per month, and necessary supervision fees, unless the offender is indigent.

2. The juvenile drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the court order for payment. User fees shall be set by the juvenile drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the juvenile drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers.

3. The court clerk shall collect all other costs and fees ordered. The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes. 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 detained for the offense. No court order for costs and fees shall be limited by any term of probation, parole, supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the offender with court monitoring until fully paid.

SECTION 6. AMENDATORY 22 O.S. 2001, Section 471.10, is amended to read as follows:

Section 471.10 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 the Oklahoma Drug Court Act and the Oklahoma Juvenile Drug Court 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;
6. The Office of Juvenile Affairs; and
7. The Oklahoma Department of ~~Vocational and Technical~~ Career and Technology Education.

B. The Administrative Office of the Courts shall promulgate rules, procedures, and forms necessary to implement the Oklahoma Drug Court 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 drug court programs with the assistance of the State Department of Health, the State Department of Education, the Oklahoma Department of Career and Technology Education, the Department of Corrections, the Office of Juvenile Affairs, and the Administrative Office of the Courts. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the district courts in implementing drug court programs.

C. All participating agencies shall promulgate rules as necessary to comply with the provisions of this act. Each district court shall establish rules for their jurisdiction upon implementation of a drug court program, pursuant to the provisions of this act.

SECTION 7. This act shall become effective January 1, 2005.

49-2-8459 SB 02/12/04