

CS for EHB 1405

THE STATE SENATE
Tuesday, April 12, 2005

Committee Substitute for
ENGROSSED

House Bill No. 1405

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1405 - By: YOUNG, ASKINS, BLACKWELL, INGMIRE, WINCHESTER, NANCE and BRADDOCK of the House and CRUTCHFIELD and MYERS of the Senate.

[juveniles - Juvenile Drug Court Act - establishing jurisdiction - prohibiting admission - providing for referral - codification - effective date]

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7303-4.6, as amended by Section 4, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2004, Section 7303-4.6), is amended to read as follows:

Section 7303-4.6 A. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings or proceedings to determine if a child is in need of supervision for one hundred eighty (180) days if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a

1 misdemeanor or that if committed by an adult would be grand larceny
2 of property valued at One Hundred Dollars (\$100.00) or less;

3 2. Waives the privilege against self-incrimination and
4 testifies, under oath, that the allegations are true;

5 3. Has not been previously adjudicated a delinquent; and

6 4. Presents to the court an oral or written request to attend a
7 Teen Court program ~~or~~, graduated sanctions program, or juvenile drug
8 court.

9 C. The Teen Court program ~~or~~, graduated sanctions program, or
10 juvenile drug court must be approved by the court.

11 D. The court shall dismiss the case with prejudice at the
12 conclusion of the deferral period if the child presents satisfactory
13 evidence that the Teen Court program ~~or~~, graduated sanctions
14 program, or juvenile drug court has been successfully completed.

15 E. The court may require a child who requests a Teen Court
16 program to pay a fee, as determined by the court, not to exceed
17 Twenty Dollars (\$20.00) to cover the costs of administration. The
18 fee shall be deposited in the court clerk's official depository
19 account. Eighty percent (80%) of the costs so paid shall be
20 distributed to the organization sponsoring the Teen Court to be used
21 for Teen Court operating expenses. The remaining twenty percent
22 (20%) of the cost shall be paid by the court clerk to the court
23 fund.

1 F. A court may defer delinquency proceedings or proceedings to
2 determine if a child is in need of supervision for one hundred
3 eighty (180) days for any child that has not been previously
4 adjudicated delinquent, if the child and, if required by the court,
5 the parent or legal guardian of the child agree to participate in an
6 alternative diversion program for first-time offenders that has been
7 approved by the court. The court shall dismiss the case with
8 prejudice at the conclusion of the deferral period if the child
9 presents satisfactory evidence that the alternative diversion
10 program for first-time offenders has been successfully completed.
11 The records of a case dismissed pursuant to this subsection shall be
12 subject to the provisions of Article VII of the Oklahoma Juvenile
13 Code.

14 G. A court may defer delinquency proceedings for one hundred
15 eighty (180) days for any child that has not been previously
16 adjudicated delinquent, if the child agrees to participate in a
17 military mentor program that has been approved by the court. The
18 court shall dismiss the case with prejudice at the conclusion of the
19 deferral period if the child presents satisfactory evidence that the
20 military mentor program has been successfully completed. The
21 records of a case dismissed pursuant to this subsection shall be
22 subject to the provisions of Article VII of the Oklahoma Juvenile
23 Code.

1 H. As used in this section:

2 1. "Alternative diversion programs for first-time offenders"
3 means programs for juveniles who have been identified by law
4 enforcement personnel, the district attorney, or the court as having
5 committed acts which are not serious enough to warrant adjudication
6 through the juvenile court process, but which do indicate a need for
7 intervention to prevent further development toward juvenile
8 delinquency. The program shall be administered, pursuant to contact
9 with the Department of Juvenile Justice, by organizations designated
10 as youth services agencies ~~in accordance with Section 7302-3.6 of~~
11 ~~this title~~ by law;

12 2. "Graduated sanctions program" means a program administered
13 by the Office of Juvenile Affairs as defined in Section 7301-1.3 of
14 this title or as otherwise approved by the court;

15 3. "Juvenile drug court", "juvenile drug court program" or
16 "program" means a highly structured judicial intervention process
17 for substance abuse treatment of eligible juveniles which expedites
18 the case;

19 4. "Military mentor program" means a program administered by
20 the Oklahoma Military Department as provided in Section 7303-5.3 of
21 this title; and

22 5. "Teen Court program" means a program which provides an
23 alternative judicial forum for cases involving juvenile offenders,

1 in which teenage participants, under the supervision of an adult
2 coordinator, may serve in various capacities within the courtroom,
3 including jurors, lawyers, bailiffs and judges. Such program also
4 may include participation by volunteer adult attorneys. The Teen
5 Court hears cases involving juvenile offenders who are referred to
6 the Teen Court by the district attorney or the district court and
7 assesses sentences such as participation in community work projects,
8 counseling or rehabilitation programs;

9 ~~3. "Military mentor program" means a program administered by~~
10 ~~the Oklahoma Military Department as provided in Section 7303-5.3 of~~
11 ~~this title; and~~

12 ~~4. "Graduated sanctions program" means a program administered~~
13 ~~by the Office of Juvenile Affairs or as otherwise approved by the~~
14 ~~Court as defined in Section 7301-1.3 of this title.~~

15 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7303-5.5, is
16 amended to read as follows:

17 Section 7303-5.5 A. The court is hereby authorized to
18 establish a juvenile drug court similar to the authority of the
19 Oklahoma Drug Court Act for the purpose of treating ~~alleged and~~
20 ~~adjudicated~~ juveniles who have a history of substance abuse. The
21 Department of Mental Health and Substance Abuse Services shall
22 assist in the establishment of juvenile drug courts.

1 B. At the hearing to defer delinquency adjudication proceedings
2 for consideration of a juvenile for a juvenile drug court program,
3 the district judge shall determine whether:

4 1. Any statutory preclusion, other prohibition, or program
5 limitation exists and is applicable to considering the juvenile for
6 the program;

7 2. The person responsible for the juvenile's health or welfare,
8 as defined by Section 7301-1.3 of this title, will actively support
9 the participation of the juvenile in the program; and

10 3. If the juvenile and the person responsible for the
11 juvenile's health or welfare consent to treatment, a juvenile may
12 submit a request to the district court for voluntary treatment as
13 part of the juvenile's participation in a juvenile drug court
14 program as specified in Sections 5-503 and 5-505 of Title 43A of the
15 Oklahoma Statutes.

16 C. The district attorney may object to the consideration of a
17 juvenile for the juvenile drug court program at the initial hearing.

18 D. If the juvenile and the person responsible for the
19 juvenile's health or welfare voluntarily consent to be considered
20 for the juvenile drug court program and have signed and filed the
21 required form requesting consideration, the court may refer the
22 juvenile for a juvenile drug court investigation as provided in

1 Section 3 of this act and set a date for a hearing to determine
2 final eligibility for admittance into the program.

3 E. Upon denial for consideration in the juvenile drug court
4 program at the initial hearing, the case shall proceed as authorized
5 by the Juvenile Code.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 7303-5.6 of Title 10, unless
8 there is created a duplication in numbering, reads as follows:

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

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

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

22 2. The investigation shall determine the original treatment
23 plan which the offender will be required to follow if admitted to

1 the program. Any subsequent assessments or evaluations by the
2 treatment provider, if the juvenile is admitted to the program, may
3 be used to determine modifications needed to the original treatment
4 plan.

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

- 7 a. the juvenile's age and physical condition,
- 8 b. employment,
- 9 c. educational background and literacy level,
- 10 d. community and family relations,
- 11 e. prior and current drug and alcohol use,
- 12 f. mental health and medical treatment history, including
13 substance abuse treatment history,
- 14 g. demonstrable motivation,
- 15 h. the willingness of the person responsible for the
16 juvenile's health or welfare, as defined in Section
17 7301-1.3 of Title 10 of the Oklahoma Statutes, of the
18 juvenile to actively support the participation of the
19 juvenile in the program, and
- 20 i. other mitigating or aggravating factors.

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

1 2. When a juvenile is determined to be appropriate for
2 admittance to the program, the treatment staff shall make a
3 recommendation for the treatment program or programs that are
4 available and which would benefit the juvenile and accept the
5 juvenile.

6 3. Prior to the next scheduled hearing, the investigation
7 findings and recommendations for program placement shall be reported
8 to the juvenile drug court judge, the district attorney, the
9 juvenile and the person responsible for the juvenile's health or
10 welfare, as defined by Section 7301-1.3 of Title 10 of the Oklahoma
11 Statutes, and the defense attorney.

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

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

21 3. Upon failure of the district attorney and defense attorney
22 to negotiate the plea agreement, the case shall be withdrawn from

1 the juvenile drug court program and processed in the traditional
2 manner.

3 4. The rehabilitation provisions of the plea agreement shall
4 provide for reparation to the victim, community, and state.

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

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7303-5.7 of Title 10, unless
11 there is created a duplication in numbering, reads as follows:

12 A. 1. Any statement, or any information procured therefrom,
13 made by the juvenile to any supervising staff, which is made during
14 the course of any drug court investigation conducted by the
15 supervising staff pursuant to Section 3 of this act, and any report
16 of the supervising staff's findings and recommendations to the
17 court, the district attorney, or the defense counsel shall not be
18 admissible in the criminal case pending against the juvenile.

19 2. Any statement, or any information procured therefrom, with
20 respect to the specific offense for which the juvenile was arrested
21 or is charged, which is made to any supervising staff subsequent to
22 the granting of admission of the juvenile to the drug court program,

1 shall not be admissible in the pending criminal case nor shall such
2 be grounds for the revocation of a juvenile from the program.

3 3. In the event that a juvenile is denied admission to the drug
4 court program or is subsequently revoked from the program, any
5 information gained from the drug court investigation, any statements
6 or information divulged during the drug court investigation or any
7 treatment session shall not be used in the sentencing of the
8 juvenile for the original adjudication.

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

12 B. 1. The juvenile and the person responsible for the
13 juvenile's health or welfare, as defined by Section 7301-1.3 of
14 Title 10 of the Oklahoma Statutes, as consideration for entering the
15 drug court program, must consent to a full and complete photographic
16 record of property which was to be used as evidence in the pending
17 criminal case. The photographic record shall be competent evidence
18 of such property and admissible in any criminal action or proceeding
19 as the best evidence.

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

- 1 a. property, except that which is prohibited by law,
2 shall be returned to its owner after proper
3 verification of title,
4 b. the return to the owner shall be without prejudice to
5 the state or to any person who may have a claim
6 against the property, and
7 c. when a return is made to the owner, the owner shall
8 sign, under penalty of perjury, a declaration of
9 ownership, which shall be retained by the person in
10 charge of the property at the police department or
11 sheriff's office.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 7303-5.8 of Title 10, unless
14 there is created a duplication in numbering, reads as follows:

15 A. The juvenile drug court judge shall conduct a hearing to
16 determine final eligibility of the juvenile for the juvenile drug
17 court program by considering:

18 1. Whether the juvenile and the person responsible for the
19 juvenile's health or welfare, as defined by Section 7301-1.3 of
20 Title 10 of the Oklahoma Statutes, have voluntarily consented to the
21 program requirements;

22 2. The findings and recommendations of the juvenile drug court
23 investigation;

1 3. Whether there is a plea agreement, and if so, whether the
2 terms and conditions of the plea agreement among the district
3 attorney, the defense attorney, the juvenile and the person
4 responsible for the juvenile's health or welfare, as defined by
5 Section 7301-1.3 of Title 10 of the Oklahoma Statutes, are
6 appropriate and consistent with the provisions and conditions of
7 other similar juvenile cases;

8 4. Whether there is an appropriate treatment program available
9 to the juvenile and whether there is a recommended treatment plan;
10 and

11 5. Any information relevant to determining eligibility. A
12 juvenile shall not be denied admittance to any juvenile drug court
13 program based upon the inability of the juvenile and the person
14 responsible for the juvenile's health or welfare, as defined by
15 Section 7301-1.3 of Title 10 of the Oklahoma Statutes, to pay court
16 costs or other costs or fees.

17 B. At the hearing to determine final eligibility of the
18 juvenile for the juvenile drug court program, the judge shall not
19 grant a juvenile admission to the program if:

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

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

1 3. The treatment program is unwilling to accept the juvenile;
2 or

3 4. The juvenile is inappropriate for admission to the program,
4 in the discretion of the judge.

5 C. The judge shall require the person responsible for the
6 juvenile's health or welfare, as defined by Section 7301-1.3 of
7 Title 10 of the Oklahoma Statutes, to demonstrate support for
8 participation of the juvenile in the program. In order for the
9 juvenile to be admitted to the program, every person responsible for
10 the juvenile's health or welfare, as defined by Section 7301-1.3 of
11 Title 10 of the Oklahoma Statutes, shall accept the personal
12 jurisdiction of the court. Any adult who establishes a permanent
13 residence in the home where the juvenile resides after the juvenile
14 has been admitted to the program shall also accept the personal
15 jurisdiction of the court.

16 D. 1. At the final eligibility hearing, if evidence is
17 presented that was not discovered by the juvenile drug court
18 investigation, the district attorney or the defense attorney may
19 make an objection and may ask the court to withdraw the plea
20 agreement previously negotiated or the court may continue the issue
21 to a subsequent hearing.

22 2. The court shall determine whether to proceed and overrule
23 the objection, to sustain the objection and transfer the case for

1 traditional processing, or to require further negotiations of the
2 plea agreement. The decision of the judge for or against
3 eligibility and admission shall be final.

4 E. When the court accepts the treatment plan and plea
5 agreement, the juvenile, upon entering the plea as agreed by the
6 parties, shall be ordered immediately into the program. The
7 juvenile and the person responsible for the juvenile's health or
8 welfare, as defined by Section 7301-1.3 of Title 10 of the Oklahoma
9 Statutes, must have voluntarily signed the necessary court documents
10 before the juvenile may be admitted to treatment. The court
11 documents shall include:

- 12 1. Waiver of the right of the juvenile to a speedy trial;
- 13 2. A plea agreement which sets forth the offense charged and an
14 admission of facts sufficient for a determination of delinquency;
- 15 3. A written treatment plan which is subject to modification at
16 any time during the program;
- 17 4. A written statement requiring the juvenile to enter the
18 treatment program as directed by the court and to participate until
19 completion, withdrawal, or removal by the court; and
- 20 5. A statement signed voluntarily by the person or persons
21 responsible for the juvenile's health and welfare that such person
22 will comply with the orders of the court and any conditions of the

1 treatment program and supervising staff for as long as the juvenile
2 participates in the juvenile drug court program.

3 F. The court shall dismiss the case with prejudice at the
4 conclusion of the deferral period if the child presents satisfactory
5 evidence that the juvenile drug court program has been successfully
6 completed.

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

10 H. At the time a juvenile is admitted to the juvenile drug
11 court program, any bond, bail or undertaking on behalf of the
12 juvenile shall be exonerated.

13 I. 1. The period of time during which a juvenile may
14 participate in the active treatment portion of the juvenile drug
15 court program shall be not less than six (6) months nor more than
16 twenty-four (24) months and may include a period of supervision not
17 less than six (6) months nor more than one (1) year following the
18 treatment portion of the program. Any person admitted to a juvenile
19 drug court program who becomes eighteen (18) years of age shall be
20 eligible to complete the drug court program.

21 2. All participating treatment providers shall be certified by
22 the Department of Mental Health and Substance Abuse Services and
23 shall be selected and evaluated for performance-based effectiveness

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

5 3. "Supervising staff" means a community provider assigned to
6 monitor juveniles in the program, a state or local agency
7 representative or a certified treatment provider participating in
8 the program, or a person designated by the judge to perform drug
9 court investigations.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 7303-5.9 of Title 10, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The juvenile drug court judge shall make all judicial
14 decisions concerning any case assigned to the juvenile drug court
15 docket or program. The judge shall require progress reports and a
16 periodic review of each juvenile during the period of participation
17 in the drug court program or for purposes of collecting costs and
18 fees after completion of the treatment portion of the program.
19 Reports from the treatment providers and the supervising staff shall
20 be presented to the drug court judge as specified by the treatment
21 plan or as ordered by the court.

22 B. Upon the written or oral motion of the treatment provider,
23 the district attorney, the defense attorney, the juvenile, the

1 person responsible for the juvenile's health or welfare, as defined
2 by Section 7301-1.3 of Title 10 of the Oklahoma Statutes, or the
3 supervising staff, the juvenile drug court judge shall set a date
4 for a hearing to review the juvenile's progress and the treatment
5 plan. Notice shall be given to the juvenile and the person
6 responsible for the juvenile's health or welfare, as defined by
7 Section 7301-1.3 of Title 10 of the Oklahoma Statutes, and the other
8 parties participating in the drug court case three (3) days before
9 the hearing may be held.

10 C. The judge may establish a regular schedule for progress
11 hearings for any juvenile in the drug court program. The district
12 attorney shall not be required to attend regular progress hearings,
13 but shall be required to be present upon the motion of any party to
14 a drug court case.

15 D. The treatment provider, the supervising staff, the district
16 attorney, and the defense attorney shall be allowed access to all
17 information in the juvenile's drug court case file and all
18 information presented to the judge at any periodic review or
19 progress hearing.

20 E. 1. The drug court judge shall recognize relapses and
21 restarts in the program which are considered to be part of the
22 rehabilitation and recovery process.

1 2. The judge shall accomplish monitoring and juvenile
2 accountability by ordering progressively increasing sanctions as
3 authorized by law or providing incentives, rather than removing the
4 juvenile from the program when relapse occurs, except when the
5 juvenile's conduct requires revocation from the program.

6 3. Any revocation from the drug court program shall require
7 notice to the juvenile and the person responsible for the juvenile's
8 health or welfare, as defined by Section 7301-1.3 of Title 10 of the
9 Oklahoma Statutes, and other participating parties in the case and a
10 revocation hearing.

11 4. At the revocation hearing, if the juvenile is found to have
12 violated the conditions of the plea agreement and disciplinary
13 sanctions have been insufficient to gain compliance, the juvenile
14 shall be revoked from the program and be sent to adjudication for
15 the offense as provided in the plea agreement.

16 F. Upon application of any participating party to a drug court
17 case, the judge may modify a treatment plan at any hearing when it
18 is determined that the treatment is not benefiting the juvenile.
19 The primary objective of the judge in monitoring the progress of the
20 juvenile and the treatment plan shall be to keep the juvenile in
21 treatment for a sufficient time to change behaviors and attitudes.
22 Modification of the treatment plan requires a consultation with the

1 treatment provider, supervising staff, district attorney, and the
2 defense attorney.

3 G. The judge shall be prohibited from amending the written plea
4 agreement after a juvenile has been admitted to the drug court
5 program. Nothing in this provision shall be construed to limit the
6 authority of the judge to remove a juvenile from the program and
7 proceed with adjudication or traditional processing of the juvenile
8 as stated in the plea agreement after application, notice, and
9 hearing.

10 H. The juvenile drug court judge is authorized to sanction any
11 person responsible for the juvenile's health or welfare for
12 noncompliance with any condition established by the court including
13 contempt of court or other provisions allowed by law.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7303-5.10 of Title 10, unless
16 there is created a duplication in numbering, reads as follows:

17 A. 1. The juvenile drug court judge may order the juvenile or
18 the person responsible for the juvenile's health or welfare, as
19 defined by Section 7301-1.3 of Title 10 of the Oklahoma Statutes, to
20 pay all or part of the court costs, treatment costs, drug-testing
21 costs, a program user fee, and supervision fees unless the juvenile
22 and the person responsible for the juvenile's health or welfare, as

1 defined by Section 7301-1.3 of Title 10 of the Oklahoma Statutes,
2 are indigent.

3 2. The juvenile drug court judge shall establish a schedule for
4 the payment of costs and fees.

5 B. 1. There is hereby created with the county treasurer of
6 each county within this state a cash fund to be designated as the
7 "Juvenile Drug Court Revolving Fund".

8 2. The fund shall be a continuing fund, not subject to fiscal
9 year limitations, and shall consist of all monies received and any
10 other monies designated by law for deposit into the fund.

11 3. All monies accruing to the credit of the fund are hereby
12 appropriated and shall be expended by the juvenile drug court
13 coordinator for the benefit and administration of the juvenile drug
14 court program.

15 4. Claims against the fund shall include only expenses incurred
16 for the administration of the juvenile drug court program, and
17 payment may be made after the claim is approved by the juvenile drug
18 court team.

19 5. The necessary forms and procedures to account for the monies
20 shall be developed and implemented by the Office of the State
21 Auditor and Inspector.

22 C. 1. The cost for treatment, drug testing, supervision and
23 program user fees shall be set by the juvenile drug court team and

1 shall reflect actual expenses or rates established by the Department
2 of Mental Health and Substance Abuse Services and made part of the
3 court's order for payment.

4 2. The costs for drug testing, supervision, and program user
5 fees shall be made payable to the county treasurer for deposit into
6 the county Juvenile Drug Court Revolving Fund.

7 3. The costs for treatment shall be paid to the respective
8 juvenile drug court treatment provider(s).

9 4. The court clerk shall collect all other costs and fees
10 ordered.

11 D. 1. Court orders for costs and fees pursuant to this
12 subsection shall not be limited, for purposes of collection, to the
13 maximum term of adjudication for which the juvenile could have been
14 detained for the offense.

15 2. No court order for costs and fees shall be limited by any
16 term of supervision, treatment, or extension thereof.

17 3. Court orders for costs and fees shall remain an obligation
18 of the juvenile and the person responsible for the juvenile's health
19 or welfare, as defined by Section 7301-1.3 of Title 10 of the
20 Oklahoma Statutes, with court monitoring until fully paid.

21 SECTION 8. AMENDATORY 63 O.S. 2001, Section 2-503.2, as
22 last amended by Section 3, Chapter 437, O.S.L. 2003 (63 O.S. Supp.
23 2004, Section 2-503.2), is amended to read as follows:

1 Section 2-503.2 A. 1. Every person convicted of a violation
2 of the Uniform Controlled Dangerous Substances Act or the
3 Trafficking In Illegal Drugs Act, ~~Section 2-414 et seq. of this~~
4 ~~title,~~ shall be assessed for each offense a sum of not less than One
5 Hundred Dollars (\$100.00) nor more than Three Thousand Dollars
6 (\$3,000.00).

7 2. The assessment shall be mandatory and in addition to and not
8 in lieu of any fines, restitution costs, other assessments, or
9 forfeitures authorized or required by law for the offense. The
10 assessment required by this section shall not be subject to any
11 order of suspension. The court shall order either a lump sum
12 payment or establish a payment schedule.

13 3. Failure of the offender to comply with the payment schedule
14 shall be considered contempt of court.

15 4. For purposes of collection, the assessment order shall not
16 expire until paid in full, nor shall the assessment order be limited
17 by the term of imprisonment prescribed by law for the offense, nor
18 by any term of imprisonment imposed against the offender, whether
19 suspended or actually served.

20 B. The assessment provided for in subsection A of this section
21 shall be collected by the court clerk as provided for collection of
22 fines and costs. When assessment payments are collected by the
23 court clerk pursuant to court order, the funds shall be forwarded to

1 the Department of Mental Health and Substance Abuse Services for
2 deposit into its Drug Abuse Education and Treatment Revolving Fund
3 created by ~~subsection C of Section 2-503.2 of this title~~ this
4 section.

5 C. 1. There is hereby created in the State Treasury a
6 revolving fund for the Department of Mental Health and Substance
7 Abuse Services to be designated the "Drug Abuse Education and
8 Treatment Revolving Fund". The fund shall be a continuing fund, not
9 subject to fiscal year limitations, and shall consist of assessments
10 collected pursuant to this section, court-ordered assessments
11 collected pursuant to Section 11-902 of Title 47 of the Oklahoma
12 Statutes and Section 2-401 of this title, the Oklahoma Drug Court
13 Act, Section 5 of this act, grants, gifts and other money accruing
14 to the benefit of the fund and the Oklahoma Drug Court Act.

15 2. All monies accruing to the credit of the fund are hereby
16 appropriated and may be budgeted and expended by the Department of
17 Mental Health and Substance Abuse Services for treatment and drug
18 testing of indigent substance abusing offenders pursuant to the
19 Oklahoma Drug Court Act, Section 7303-5.5 of Title 10 of the
20 Oklahoma Statutes, and Sections 3 through 5 of this act, for
21 substance abuse prevention, drug courts, and continuing education.

1 3. Expenditures from said fund shall be made upon warrants
2 issued by the State Treasurer against claims filed as prescribed by
3 law with the Director of State Finance for approval and payment.

4 4. Monies expended from this fund shall not supplant other
5 local, state, or federal funds.

6 SECTION 9. This act shall become effective November 1, 2005.

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO
8 PASS, As Amended and Coauthored.