

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1578

6 By: Peters

7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10 O.S. 2001,
9 Section 7303-5.5, as amended by Section 2, Chapter
10 226, O.S.L. 2005 and Section 3, Chapter 226, O.S.L.
11 2005 (10 O.S. Supp. 2006, Sections 7303-5.5 and 7303-
12 5.6), which relate to the Oklahoma Juvenile Code;
13 requiring Office of Juvenile Affairs to assist in
14 establishment of juvenile drug courts; providing
15 juvenile drug court guidelines; requiring performance
16 of investigation by supervising staff; updating
17 statutory references; defining term; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7303-5.5, as
21 amended by Section 2, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2006,
22 Section 7303-5.5), is amended to read as follows:

23 Section 7303-5.5 A. The court is hereby authorized to
24 establish a juvenile drug court similar to the authority of the
25 Oklahoma Drug Court Act for the purpose of treating alleged or
26 adjudicated juveniles who have a substance abuse disorder. The
27 Office of Juvenile Affairs and the Department of Mental Health and

1 Substance Abuse Services shall assist in the establishment of
2 juvenile drug courts.

3 B. Each juvenile drug court program shall ensure, but not be
4 limited to:

5 1. Strong linkage and cooperation between participating
6 agencies;

7 2. Access by all participating parties of a case to information
8 on the progress of the juvenile;

9 3. Vigilant supervision and monitoring procedures;

10 4. Frequent and random substance abuse testing;

11 5. Provisions for noncompliance, modification of the treatment
12 plan, and revocation proceedings;

13 6. Availability of residential treatment facilities and
14 outpatient services;

15 7. Payment of court costs, treatment costs, supervision fees,
16 and program user fees by the juvenile or the person responsible for
17 the health and welfare of the juvenile; and

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

20 a. increased supervision,

21 b. drug or alcohol monitoring or testing,

22 c. intensive outpatient treatment,

23 d. short-term placement in an approved sanction bed for a
24 period not to exceed five (5) days per violation,

1 e. recycling the juvenile into the program after a
2 disciplinary action for a minimum violation of the
3 treatment plan,

4 f. reinstating the juvenile into the program after a
5 disciplinary action for a major violation of the
6 treatment plan, and

7 g. revocation from the program.

8 C. At the hearing to defer delinquency adjudication proceedings
9 for consideration of a juvenile for a juvenile drug court program,
10 the district judge shall determine whether:

11 1. Any statutory preclusion, other prohibition, or program
12 limitation exists and is applicable to considering the juvenile for
13 the program;

14 2. The person responsible for the health or welfare of the
15 juvenile, as defined by Section 7301-1.3 of this title, will
16 actively support the participation of the juvenile in the program;
17 and

18 3. The juvenile and the person responsible for the health or
19 welfare of the juvenile consent to treatment as part of the
20 juvenile's participation in a juvenile drug court program, including
21 residential treatment, if residential treatment is deemed necessary
22 and appropriate by the drug court team.

1 ~~C.~~ D. The district attorney may object to the consideration of
2 a juvenile for the juvenile drug court program at the initial
3 hearing.

4 ~~D.~~ E. If the juvenile and the person responsible for the health
5 or welfare of the juvenile voluntarily consent to be considered for
6 the juvenile drug court program and have signed and filed the
7 required form requesting consideration, the court may refer the
8 juvenile for a juvenile drug court investigation as provided in
9 Section ~~3~~ 7303-5.6 of this ~~act~~ title and set a date for a hearing to
10 determine final eligibility for admittance into the program.

11 ~~E.~~ F. As a condition of participation in the juvenile drug
12 court program, the juvenile shall stipulate to the facts of the case
13 and the plea agreement shall specify the provisions and conditions
14 of traditional processing should the juvenile be revoked from the
15 drug court program.

16 ~~F.~~ G. Upon denial for consideration in the juvenile drug court
17 program at the initial hearing, the case shall proceed as authorized
18 by the Juvenile Code.

19 SECTION 2. AMENDATORY Section 3, Chapter 226, O.S.L.
20 2005 (10 O.S. Supp. 2006, Section 7303-5.6), is amended to read as
21 follows:

22 Section 7303-5.6 A. When directed by the juvenile drug court
23 judge, the supervising staff and the treatment staff for the
24 juvenile drug court program shall make an investigation of the

1 juvenile under consideration to determine whether the juvenile is a
2 person who:

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

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

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

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

- 20 a. the age and physical condition of the juvenile,
- 21 b. employment,
- 22 c. educational background and literacy level,
- 23 d. community and family relations,
- 24 e. prior and current drug and alcohol use,

- 1 f. mental health and medical treatment history, including
2 substance abuse treatment history,
3 g. demonstrable motivation,
4 h. the willingness of the person responsible for the
5 health or welfare of the juvenile, as defined in
6 Section 7301-1.3 of ~~Title 10 of the Oklahoma Statutes~~
7 this title, to actively support the participation of
8 the juvenile in the program, and
9 i. other mitigating or aggravating factors.

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

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

18 3. Prior to the next scheduled hearing, the investigation
19 findings and recommendations for program placement shall be reported
20 to the juvenile drug court judge, the district attorney, the
21 juvenile and the person responsible for the health or welfare of the
22 juvenile, as defined in Section 7301-1.3 of ~~Title 10 of the Oklahoma~~
23 ~~Statutes~~ this title, and the defense attorney.

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

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

10 3. Upon failure of the district attorney and defense attorney
11 to negotiate the plea agreement, the case shall be withdrawn from
12 the juvenile drug court program and processed in the traditional
13 manner.

14 4. The rehabilitation provisions of the plea agreement shall
15 emphasize reparation to the victim, community, and state.

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

20 F. For purposes of this act, "supervising staff" means:

21 1. An Office of Juvenile Affairs employee assigned to monitor
22 offenders in the drug court program;

23 2. A community provider assigned to monitor offenders in the
24 program;

- 1 3. A state or local agency representative or a certified and
- 2 contracted treatment provider participating in the program; or
- 3 4. A person designated by the judge to perform drug court
- 4 investigations.

5 SECTION 3. This act shall become effective November 1, 2007.

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