

THE HOUSE OF REPRESENTATIVES
Tuesday, February 19, 2008

Committee Substitute for
House Bill No. 2522

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2522 - By: SHERRER, INMAN,
KIESEL AND SULLIVAN of the House and BURRAGE of the Senate.

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 471.1,
which relates to the Oklahoma Drug Court Act; authorizing counties to
establish a misdemeanor drug court program; directing the Department of
Mental Health and Substance Abuse Services to provide assistance; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.1, is amended to read
2 as follows:
3 Section 471.1 A. For purposes of this act, "drug court", "drug court program" or
4 "program" means an immediate and highly structured judicial intervention process for
5 substance abuse treatment of eligible offenders which expedites the criminal case, and
6 requires successful completion of the plea agreement in lieu of incarceration.
7 B. Each district court of this state is authorized to establish a drug court program
8 pursuant to the provisions of this act, subject to availability of funds. Juvenile drug
9 courts may be established based upon the provisions of this act; provided, however,
10 juveniles shall not be held, processed, or treated in any manner which violates any
11 provision of Title 10 of the Oklahoma Statutes.

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

7 D. Drug court programs shall require a separate judicial processing system
8 differing in practice and design from the traditional adversarial criminal prosecution and
9 trial systems. Whenever possible, a drug court team shall be designated consisting of a
10 judge to administer the program, a district attorney, a defense attorney, and other
11 persons designated by the drug court team who shall have appropriate understanding of
12 the goals of the program and of the appropriate treatment methods for the various
13 conditions. The assignment of any person to the drug court team shall not preclude the
14 assigned person from performing other duties required in the course of their office or
15 employment. The chief judge of the judicial district, or if the district has more than one
16 chief judge than the presiding judge of the Administrative Judicial District, shall
17 designate one or more judges to administer the drug court program. The assignment of
18 any judge to a drug court program or the designation of a drug court docket shall not
19 mandate the assignment of all substance abuse related cases to the drug court docket or
20 the program; however, nothing in this act shall be construed to preclude the assignment
21 of all criminal cases relating to substance abuse or drug possession as provided by the
22 rules established for the specific drug court program.

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

15 F. The court may request assistance from the Department of Mental Health and
16 Substance Abuse Services which shall be the primary agency to assist in developing and
17 implementing a drug court program or from any state or local agency in obtaining the
18 necessary treatment services which will assure maximum opportunity for successful
19 treatment, education, and rehabilitation for offenders admitted to the program. All
20 participating state and local agencies are directed to coordinate with each other and
21 cooperate in assisting the district court in establishing a drug court program.

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

- 1 1. Strong linkage between participating agencies;
- 2 2. Access by all participating parties of a case to information on the offender's
- 3 progress of the offender;
- 4 3. Vigilant supervision and monitoring procedures;
- 5 4. Random substance abuse testing;
- 6 5. Provisions for noncompliance, modification of the treatment plan, and revocation
- 7 proceedings;
- 8 6. Availability of residential treatment facilities and outpatient services;
- 9 7. Payment of court costs, treatment costs, supervision fees, and program user fees
- 10 by the offender;
- 11 8. Methods for measuring application of disciplinary sanctions, including provisions
- 12 for:
 - 13 a. increased supervision,
 - 14 b. urinalysis testing,
 - 15 c. intensive treatment,
 - 16 d. short-term confinement not to exceed five (5) days,
 - 17 e. recycling the offender into the program after a disciplinary action for a
 - 18 minimum violation of the treatment plan,
 - 19 f. reinstating the offender into the program after a disciplinary action for
 - 20 a major violation of the treatment plan, and
 - 21 g. revocation from the program; and

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

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

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

12 SECTION 2. This act shall become effective November 1, 2008.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
14 dated 02-18-08 - DO PASS, As Amended and Coauthored.