

EHB 2522

1 THE STATE SENATE
2 Thursday, April 3, 2008

3 ENGROSSED

4 House Bill No. 2522

5 ENGROSSED HOUSE BILL NO. 2522 - By: Sherrer, Inman, Kiesel,
6 Sullivan, Pittman, BigHorse, Tibbs, Braddock and Hoskin of the House
7 and Burrage of the Senate.

8 An Act relating to criminal procedure; amending 22 O.S.
9 2001, Section 471.1, which relates to the Oklahoma Drug
10 Court Act; authorizing counties to establish a misdemeanor
11 drug court program; directing the Department of Mental
12 Health and Substance Abuse Services to provide assistance;
13 and providing an effective date.

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

15 SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.1, is
16 amended to read as follows:

17 Section 471.1 A. For purposes of this act, "drug court", "drug
18 court program" or "program" means an immediate and highly structured
19 judicial intervention process for substance abuse treatment of
20 eligible offenders which expedites the criminal case, and requires
21 successful completion of the plea agreement in lieu of
22 incarceration.

23 B. Each district court of this state is authorized to establish
24 a drug court program pursuant to the provisions of this act, subject
25 to availability of funds. Juvenile drug courts may be established
26 based upon the provisions of this act; provided, however, juveniles

1 shall not be held, processed, or treated in any manner which
2 violates any provision of Title 10 of the Oklahoma Statutes.

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

11 D. Drug court programs shall require a separate judicial
12 processing system differing in practice and design from the
13 traditional adversarial criminal prosecution and trial systems.
14 Whenever possible, a drug court team shall be designated consisting
15 of a judge to administer the program, a district attorney, a defense
16 attorney, and other persons designated by the drug court team who
17 shall have appropriate understanding of the goals of the program and
18 of the appropriate treatment methods for the various conditions.
19 The assignment of any person to the drug court team shall not
20 preclude the assigned person from performing other duties required
21 in the course of their office or employment. The chief judge of the
22 judicial district, or if the district has more than one chief judge
23 than the presiding judge of the Administrative Judicial District,

1 shall designate one or more judges to administer the drug court
2 program. The assignment of any judge to a drug court program or the
3 designation of a drug court docket shall not mandate the assignment
4 of all substance abuse related cases to the drug court docket or the
5 program; however, nothing in this act shall be construed to preclude
6 the assignment of all criminal cases relating to substance abuse or
7 drug possession as provided by the rules established for the
8 specific drug court program.

9 E. When a drug court program is established, the arresting
10 officer shall file the criminal case record for potentially eligible
11 offenders with the district attorney within four (4) days of the
12 arrest. The district attorney shall file an information in the case
13 within twenty-four (24) hours of receipt of the criminal case record
14 when the offender appears eligible for consideration for the
15 program. The information may be amended as necessary when an
16 offender is denied admittance into the drug court program or for
17 other purposes as provided in Section 304 of ~~Title 22 of the~~
18 ~~Oklahoma Statutes~~ this title. Any person arrested upon a warrant
19 for his or her arrest shall not be eligible for the drug court
20 program without the approval of the district attorney. Any criminal
21 case which has been filed and processed in the traditional manner
22 shall be cross-referenced to a drug court case file by the court
23 clerk, if the case is subsequently assigned to the drug court

1 program. The originating criminal case file shall remain open to
2 public inspection. The judge shall determine what information or
3 pleadings are to be retained in the drug court case file, which
4 shall be closed to public inspection.

5 F. The court may request assistance from the Department of
6 Mental Health and Substance Abuse Services which shall be the
7 primary agency to assist in developing and implementing a drug court
8 program or from any state or local agency in obtaining the necessary
9 treatment services which will assure maximum opportunity for
10 successful treatment, education, and rehabilitation for offenders
11 admitted to the program. All participating state and local agencies
12 are directed to coordinate with each other and cooperate in
13 assisting the district court in establishing a drug court program.

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

- 15 1. Strong linkage between participating agencies;
- 16 2. Access by all participating parties of a case to information
17 on the ~~offender's~~ progress of the offender;
- 18 3. Vigilant supervision and monitoring procedures;
- 19 4. Random substance abuse testing;
- 20 5. Provisions for noncompliance, modification of the treatment
21 plan, and revocation proceedings;
- 22 6. Availability of residential treatment facilities and
23 outpatient services;

1 7. Payment of court costs, treatment costs, supervision fees,
2 and program user fees by the offender;

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

5 a. increased supervision,

6 b. urinalysis testing,

7 c. intensive treatment,

8 d. short-term confinement not to exceed five (5) days,

9 e. recycling the offender into the program after a

10 disciplinary action for a minimum violation of the

11 treatment plan,

12 f. reinstating the offender into the program after a

13 disciplinary action for a major violation of the

14 treatment plan, and

15 g. revocation from the program; and

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

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

21 I. Nothing in this section shall prohibit any county from
22 establishing a drug court for misdemeanor offenses. Such
23 misdemeanor drug courts shall follow the rules and regulations of

1 felony drug courts except that the penalty for revocation shall not
2 exceed one (1) year in the county jail or the maximum penalty for
3 the misdemeanor allowed by statute, whichever is less. The
4 Department of Mental Health and Substance Abuse Services shall
5 provide technical assistance to the counties that establish
6 misdemeanor drug courts.

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-1-08 - DO PASS.