

SB 2160

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THE STATE SENATE
Thursday, February 21, 2008

Senate Bill No. 2160

SENATE BILL NO. 2160 - By: BALLENGER of the Senate and SHOEMAKE of the House.

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 471.1, which relates to authorization of drug court program; authorizing transfer of certain case or supervision; and providing an effective date.

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

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

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

B. Each district court of this state is authorized to establish a drug court program pursuant to the provisions of this act, subject to availability of funds. Juvenile drug courts may be established based upon the provisions of this act; provided, however, juveniles shall not be held, processed, or treated in any manner which violates any provision of Title 10 of the Oklahoma Statutes.

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

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

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

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

1 retained in the drug court case file, which shall be closed to
2 public inspection. A drug court case or supervision may be
3 transferred, upon agreement of the judges of both the transferring
4 and the receiving drug court program, to a program in another
5 judicial district.

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

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

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

1 6. Availability of residential treatment facilities and
2 outpatient services;

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

5 8. Methods for measuring application of disciplinary sanctions,
6 including provisions for:

7 a. increased supervision,

8 b. urinalysis testing,

9 c. intensive treatment,

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

11 e. recycling the offender into the program after a
12 disciplinary action for a minimum violation of the
13 treatment plan,

14 f. reinstating the offender into the program after a
15 disciplinary action for a major violation of the
16 treatment plan, and

17 g. revocation from the program; and

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
2 PASS, As Coauthored.