

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 1741

By: Peters, Shumate, Shelton,  
(Walker, Smithson,  
McAffrey, Tibbs and Martin  
(Steve)) of the House

6 and

7 Burrage of the Senate  
8

9  
10 COMMITTEE SUBSTITUTE

11 [ children - family drug court program - providing  
12 guidelines and authority - codification - effective  
13 date ]  
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15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 7009-1.1 of Title 10, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. Each district court is hereby authorized to establish a  
20 family drug court for the purpose of treating children adjudicated  
21 as deprived and their families in cases where the parent, parents or  
22 legal guardian has a substance abuse disorder. The Department of  
23 Mental Health and Substance Abuse Services shall assist in the  
24 establishment of family drug courts.

1 B. At the adjudicatory or dispositional hearing in a deprived  
2 case, the court may determine whether there are any statutory  
3 preclusions, other prohibitions, or program limitations that exist  
4 and are applicable to considering the family for participation in  
5 the drug court program.

6 C. A family drug court assessment shall be ordered by the  
7 court, upon the motion of the district attorney, Department of Human  
8 Services, the child's attorney, parent, legal guardian or upon the  
9 court's own motion, once the requirements of subsection B of this  
10 section have been met.

11 D. The court shall set a date for a hearing to determine final  
12 eligibility for admittance into the program which shall not exceed  
13 thirty (30) days after the dispositional hearing.

14 E. Upon denial for consideration in the family drug court  
15 program at the initial hearing, the case shall proceed as authorized  
16 by the Children's Code.

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 7009-1.2 of Title 10, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. When directed by the court, the treatment staff for the  
21 family drug court program shall make a family drug court assessment  
22 of the deprived child or children and the family under consideration  
23 to determine whether:

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1           1. Reunification is a viable permanency plan for the child or  
2 children and that reunification with the parent, parents or legal  
3 guardian is in the best interest of the child or children; and

4           2. The alcohol or substance abuse of the parent, parents or  
5 legal guardian is a substantial contributing condition to the  
6 adjudication of a child or children as deprived.

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

12           2. The family drug court assessment shall determine the  
13 elements of the treatment plan which the parent, parents or legal  
14 guardian shall be required to comply with if admitted to the  
15 program. Any subsequent assessments or evaluations by the treatment  
16 provider may be used to determine modifications needed to the  
17 original treatment plan.

18           3. The family drug court assessment shall include, but not be  
19 limited to, the following information:

- 20           a. the age and physical condition of the child or  
21                children,  
22           b. family employment,  
23           c. educational background and literacy level,  
24           d. community and family relations,

- e. prior and current drug and alcohol use,
- f. behavioral health and medical treatment history,
- g. demonstrable motivation of the family, and
- h. other mitigating or aggravating factors.

C. When a family is determined to be appropriate for admittance to the program, regardless of whether the child or children are in the custody of the Department of Human Services, the treatment staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the family and child or children.

D. 1. Any statement made by the parent or legal guardian to any supervising staff during the course of any drug court assessment and subsequent to the admission of the parent or legal guardian to the family drug court program, as well as any report of findings and recommendations, shall not be admissible in any other case pending against the parent or legal guardian, nor shall such be grounds for the revocation of a parent or legal guardian from the program.

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7009-1.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

1 A. The family drug court judge shall conduct a hearing to  
2 determine final eligibility of the family for the family drug court  
3 program by considering:

4 1. Whether the child or children and family are appropriate for  
5 placement in drug court, as provided in Section 2 of this act;

6 2. The findings and recommendations of the family drug court  
7 assessment;

8 3. Whether there is an appropriate treatment program available  
9 to the family and whether there is a recommended treatment plan; and

10 4. Any information relevant to determining eligibility. A  
11 family shall not be denied admittance to any family drug court  
12 program based upon the inability of the family to pay court costs or  
13 other costs or fees.

14 B. The judge shall require the family to demonstrate support  
15 for participation in the program. In order for the family to be  
16 admitted to the program, every person responsible for the health or  
17 welfare of the child or children shall accept the personal  
18 jurisdiction of the court. Any adult who establishes a permanent  
19 residence in the home where the child or children reside after the  
20 child or children have been admitted to the program shall also  
21 accept the personal jurisdiction of the court. Failure of an adult  
22 responsible for the health or welfare of the child or children, or  
23 an adult who resides in the home with the child or children, to  
24 accept personal jurisdiction of the court shall result in either the

1 family's dismissal from the drug court program, contempt of court  
2 proceedings for the adult, removal of the child or children from the  
3 home, or any combination thereof.

4 C. When the court accepts the treatment plan, the child or  
5 children and family shall be ordered immediately into the program  
6 and the person responsible for the health or welfare of the child or  
7 children and any adult who resides in the home of the child or  
8 children shall have voluntarily signed the necessary court documents  
9 before the child or children and family may be admitted to  
10 treatment. The court documents shall include:

11 1. A written treatment plan, which is subject to modification  
12 at any time during the program, as set forth in Section 2 of this  
13 act;

14 2. A statement requiring the child or children and family to  
15 enter the treatment program as directed by the court and to  
16 participate until completion, withdrawal, or removal by the court;  
17 and

18 3. A statement signed voluntarily by the person or persons  
19 responsible for the health or welfare of the child or children and  
20 any adult who resides in the home with the child or children that  
21 such person or persons shall comply with the orders of the court and  
22 any conditions of the treatment program and supervising staff for as  
23 long as the family participates in the family drug court program.

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1 D. If admission into the family drug court program is denied,  
2 the case shall be returned to the traditional juvenile docket and  
3 shall proceed as provided for any other juvenile case.

4 E. At the time a child or children and family is admitted to  
5 the family drug court program, any bond, bail or undertaking on  
6 behalf of the child or children or family shall be exonerated.

7 F. 1. A family shall actively participate in treatment for a  
8 period of not less than six (6) months while participating in the  
9 family drug court program.

10 2. All participating treatment providers shall be certified by  
11 the Department of Mental Health and Substance Abuse Services.  
12 Treatment programs shall be designed to be completed within twelve  
13 (12) months and shall have relapse prevention and evaluation  
14 components.

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 7009-1.4 of Title 10, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. The family drug court judge shall make all judicial  
19 decisions concerning any case assigned to the family drug court  
20 docket or program. The judge shall require progress reports and a  
21 periodic review of each family during their period of participation  
22 in the drug court program or for purposes of collecting costs and  
23 fees after completion of the treatment portion of the program.  
24 Reports from the treatment providers and the supervising staff shall

1 be presented to the drug court judge as specified by the treatment  
2 plan or as ordered by the court.

3 B. The judge may establish a regular schedule for progress  
4 hearings for any family in the drug court program. The district  
5 attorney, the Department of Human Services, the child or children  
6 and family, including any adult who resides in the home with the  
7 child or children, the attorney for the child or children and  
8 family, including any adult who resides in the home with the child  
9 or children, and the treatment provider shall be required to attend  
10 regular progress hearings, and shall be required to be present upon  
11 the motion of any party to a drug court case.

12 C. The treatment provider, the supervising staff, the district  
13 attorney, the Department of Human Services, and the attorney for the  
14 child or children and family shall be allowed access to all  
15 information in the drug court case file of the child or children and  
16 all information presented to the judge at any periodic review or  
17 progress hearing.

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

21 2. The family drug court judge shall order progressively  
22 increasing sanctions or provide incentives, rather than removing the  
23 family from the program when relapse occurs, except when the conduct  
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1 of the child or children or family requires removal from the  
2 program.

3 3. Any removal from the drug court program shall require notice  
4 to the child or children and family and other participating parties  
5 in the case and a hearing.

6 4. At any family drug court hearing, if the child or children  
7 or an adult responsible for the health and welfare of the child or  
8 children is found to have violated the conditions of the treatment  
9 plan and disciplinary sanctions have been insufficient to gain  
10 compliance, the child or children and family shall be removed from  
11 the program, and the child or children shall be returned to the  
12 regular juvenile court docket and set for redispotion or  
13 permanency hearing.

14 E. Upon application of any participating party to a family drug  
15 court case, the judge may modify a treatment plan at any hearing  
16 when it is determined that the treatment is not beneficial to the  
17 child or children. The primary objective of the judge in monitoring  
18 the progress of the child or children, the family and the treatment  
19 plan shall be to keep the child or children and family in treatment  
20 for a sufficient time to change behaviors and attitudes.

21 Modification of the treatment plan requires a consultation with the  
22 treatment provider, supervising staff, district attorney, the  
23 Department of Human Services, the attorney for the child or children  
24 and the attorney for the family in open court.

1 F. The family drug court judge shall be authorized to modify  
2 the treatment plan of any person responsible for the health and  
3 welfare of the child or children and any adult residing with the  
4 child or children for noncompliance with any condition established  
5 by the court. The family drug court judge is also authorized to  
6 sanction the person responsible for the health and welfare of the  
7 child or children or any adult residing with the child or children  
8 for noncompliance of such person with any condition established in  
9 the court.

10 SECTION 5. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 7009-1.5 of Title 10, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. 1. The family drug court judge may order the family, or a  
14 member of the family, to pay court costs, treatment costs, drug-  
15 testing costs, and supervision fees. The family drug court judge  
16 may order an adult member or members of the family responsible for  
17 the health or welfare of the child or children to pay a program user  
18 fee, not to exceed Twenty Dollars (\$20.00) per month.

19 2. The family drug court judge may establish a schedule for the  
20 payment of costs and fees.

21 B. There shall be created with the county treasurer of each  
22 county within this state a cash fund to be designated as the "Family  
23 Drug Court Revolving Fund".

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

4           2. All monies accruing to the credit of the fund are hereby  
5 appropriated and shall be expended by the family drug court  
6 coordinator for the benefit and administration of the family drug  
7 court program.

8           3. Claims against the fund shall include only expenses incurred  
9 for the administration of the family drug court program and payment  
10 may be made after the claim is approved by the family drug court  
11 team.

12          4. The necessary forms and procedures to account for the monies  
13 shall be developed and implemented by the Office of the State  
14 Auditor and Inspector.

15          C. 1. The cost for treatment, drug testing, and supervision  
16 fees shall be set by the family drug court team and shall reflect  
17 actual expenses or rates established by the Department of Mental  
18 Health and Substance Abuse Services and made part of the court's  
19 order for payment.

20          2. The costs for drug testing and supervision fees shall be  
21 paid to the family drug court coordinator for deposit into the  
22 county Family Drug Court Revolving Fund.

23          3. The costs for treatment shall be paid to the respective  
24 family drug court treatment provider or providers.

1 4. The court clerk shall collect all other costs and fees  
2 ordered.

3 D. 1. No court order for costs and fees shall be limited by  
4 any term of supervision, treatment, or extension thereof.

5 2. Court orders for costs and fees shall remain an obligation  
6 of the adult member or members of the family responsible for the  
7 health or welfare of the child or children with court monitoring  
8 until fully paid.

9 SECTION 6. This act shall become effective November 1, 2009.

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