

1 ENGROSSED HOUSE  
2 BILL NO. 1741

By: Peters, Shumate and Shelton  
of the House

3 and

4 Burrage of the Senate

5  
6  
7 ( children - family drug court program - providing  
8 guidelines and authority - codification -  
9 effective date )

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

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

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

22 B. At the adjudicatory or dispositional hearing in a deprived  
23 case, the court may determine whether there are any statutory  
24 preclusions, other prohibitions, or program limitations that exist

1 and are applicable to considering the family for participation in  
2 the drug court program.

3 C. A family drug court assessment shall be ordered by the  
4 court, upon the motion of the state, the child's attorney, parent,  
5 legal guardian or upon the court's own motion, once the requirements  
6 of subsection B of this section have been met.

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

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

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

16 A. When directed by the district court, the treatment staff for  
17 the family drug court program shall make an assessment of the  
18 deprived child and the family under consideration to determine  
19 whether:

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

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

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

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

15           3. The assessment shall include, but not be limited to, the  
16 following information:

- 17           a. the age and physical condition of the child,
- 18           b. family employment,
- 19           c. educational background and literacy level,
- 20           d. community and family relations,
- 21           e. prior and current drug and alcohol use,
- 22           f. behavioral health and medical treatment  
23           history,
- 24           g. demonstrable motivation of the family, and

1           h.    other mitigating or aggravating factors.

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

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

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

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

21           A. The family drug court judge shall conduct a hearing to  
22 determine final eligibility of the family for the family drug court  
23 program by considering:

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

3           2. The findings and recommendations of the family drug court  
4 assessment;

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

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

11           B. The judge shall require the family to demonstrate support  
12 for participation in the program. In order for the family to be  
13 admitted to the program, every person responsible for the health or  
14 welfare of the child shall accept the personal jurisdiction of the  
15 court. Any adult who establishes a permanent residence in the home  
16 where the child resides after the child has been admitted to the  
17 program shall also accept the personal jurisdiction of the court.  
18 Failure of an adult responsible for the health or welfare of the  
19 child, or an adult who resides in the home with the child to accept  
20 personal jurisdiction of the court shall result in either the  
21 family's dismissal from the drug court program, contempt of court  
22 proceedings for the adult, removal of the child from the home, or  
23 any combination thereof.

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1 C. When the court accepts the treatment plan, the child and  
2 family shall be ordered immediately into the program and the person  
3 responsible for the health or welfare of the child shall have  
4 voluntarily signed the necessary court documents before the child  
5 and family may be admitted to treatment. The court documents shall  
6 include:

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

10 2. A statement requiring the child and family to enter the  
11 treatment program as directed by the court and to participate until  
12 completion, withdrawal, or removal by the court; and

13 3. A statement signed voluntarily by the person or persons  
14 responsible for the health or welfare of the child that such person  
15 shall comply with the orders of the court and any conditions of the  
16 treatment program and supervising staff for as long as the family  
17 participates in the family drug court program.

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

21 E. At the time a child and family is admitted to the family  
22 drug court program, any bond, bail or undertaking on behalf of the  
23 child or family shall be exonerated.

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

4 2. All participating treatment providers shall be certified by  
5 the Department of Mental Health and Substance Abuse Services and  
6 shall be selected and evaluated for performance-based effectiveness  
7 annually by the Department of Mental Health and Substance Abuse  
8 Services. Treatment programs shall be designed to be completed  
9 within twelve (12) months and shall have relapse prevention and  
10 evaluation components.

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

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

23 B. The judge may establish a regular schedule for progress  
24 hearings for any family in the drug court program. The district

1 attorney, the child or family, the attorney for the child or family,  
2 and the treatment provider shall be required to attend regular  
3 progress hearings, and shall be required to be present upon the  
4 motion of any party to a drug court case.

5 C. The treatment provider, the supervising staff, the district  
6 attorney, and the attorney for the child and family shall be allowed  
7 access to all information in the drug court case file of the child  
8 and all information presented to the judge at any periodic review or  
9 progress hearing.

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

13 2. The family drug court judge shall order progressively  
14 increasing sanctions or provide incentives, rather than removing the  
15 family from the program when relapse occurs, except when the conduct  
16 of the child or family requires removal from the program.

17 3. Any removal from the drug court program shall require notice  
18 to the child and family and other participating parties in the case  
19 and a hearing.

20 4. At any family drug court hearing, if the child or an adult  
21 responsible for the health and welfare of the child is found to have  
22 violated the conditions of the treatment plan and disciplinary  
23 sanctions have been insufficient to gain compliance, the child and  
24 family shall be removed from the program, the child shall be

1 returned to the regular juvenile court docket and set for  
2 redispotion or permanency hearing.

3 E. Upon application of any participating party to a drug court  
4 case, the judge may modify a treatment plan at any hearing when it  
5 is determined that the treatment is not beneficial to the child.  
6 The primary objective of the judge in monitoring the progress of the  
7 child, the family and the treatment plan shall be to keep the child  
8 and family in treatment for a sufficient time to change behaviors  
9 and attitudes. Modification of the treatment plan requires a  
10 consultation with the treatment provider, supervising staff,  
11 district attorney, the attorney for the child and the attorney for  
12 the family in open court.

13 F. The family drug court judge shall be authorized to modify  
14 the treatment plan of any person responsible for the health and  
15 welfare of the child and any adult residing with the child, for  
16 noncompliance with any condition established by the court. The  
17 family drug court judge is also authorized to sanction the person  
18 responsible for the health and welfare of the child or any adult  
19 residing with the child, for noncompliance of such person with any  
20 condition established in the court.

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

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1       A. 1. The family drug court judge may order the family, or a  
2 member of the family, to pay court costs, treatment costs, drug-  
3 testing costs, and supervision fees. The family drug court judge  
4 may order an adult member or members of the family responsible for  
5 the health or welfare of the child to pay a program user fee, not to  
6 exceed Twenty Dollars (\$20.00) per month.

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

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

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

15       2. All monies accruing to the credit of the fund are hereby  
16 appropriated and shall be expended by the family drug court  
17 coordinator for the benefit and administration of the family drug  
18 court program.

19       3. Claims against the fund shall include only expenses incurred  
20 for the administration of the family drug court program and payment  
21 may be made after the claim is approved by the family drug court  
22 team.

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1 4. The necessary forms and procedures to account for the monies  
2 shall be developed and implemented by the Office of the State  
3 Auditor and Inspector.

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

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

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

14 4. The court clerk shall collect all other costs and fees  
15 ordered.

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

18 2. Court orders for costs and fees shall remain an obligation  
19 of the adult member or members of the family responsible for the  
20 health or welfare of the child with court monitoring until fully  
21 paid.

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