

1 ENGROSSED SENATE
2 BILL NO. 1796

By: Lerblance and Johnson
(Constance) of the Senate

3 and

4 Renegar of the House

5
6
7 [drug court programs - driving privileges -
8 effective date]
9

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

11 SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.6, as
12 last amended by Section 2, Chapter 290, O.S.L. 2009 (22 O.S. Supp.
13 2009, Section 471.6), is amended to read as follows:

14 Section 471.6 A. The drug court judge shall conduct a hearing
15 as required by subsection E of Section 471.4 of this title to
16 determine final eligibility by considering:

17 1. Whether or not the offender voluntarily consents to the
18 program requirements;

19 2. Whether or not to accept the offender based upon the
20 findings and recommendations of the drug court investigation
21 authorized by Section 471.4 of this title;

22 3. Whether or not there is a written plea agreement, and if so,
23 whether the terms and conditions of the written negotiated plea
24 between the district attorney, the defense attorney, and the

1 offender are appropriate and consistent with the penalty provisions
2 and conditions of other similar cases;

3 4. Whether or not there is an appropriate treatment program
4 available to the offender and whether or not there is a recommended
5 treatment plan; and

6 5. Any information relevant to determining eligibility;
7 provided, however, an offender shall not be denied admittance to any
8 drug court program based upon an inability to pay court costs or
9 other costs or fees.

10 B. At the hearing to determine final eligibility for the drug
11 court program, the judge shall not grant any admission of any
12 offender to the program when:

13 1. The required treatment plan and plea agreement have not been
14 completed;

15 2. The program funding or availability of treatment has been
16 exhausted;

17 3. The treatment program is unwilling to accept the offender;

18 4. The offender was ineligible for consideration by the nature
19 of a violent offense at the time of arrest, and the charge has been
20 modified to meet the eligibility criteria of the program; or

21 5. The offender is inappropriate for admission to the program,
22 in the discretion of the judge.

23 C. At the final eligibility hearing, if evidence is presented
24 that was not discovered by the drug court investigation, the

1 district attorney or the defense attorney may make an objection and
2 may ask the court to withdraw the plea agreement previously
3 negotiated. The court shall determine whether to proceed and
4 overrule the objection, to sustain the objection and transfer the
5 case for traditional criminal prosecution, or to require further
6 negotiations of the plea or punishment provisions. The decision of
7 the judge for or against eligibility and admission shall be final.

8 D. When the court accepts the treatment plan with the written
9 plea agreement, the offender, upon entering the plea as agreed by
10 the parties, shall be ordered and escorted immediately into the
11 program. The offender must have voluntarily signed the necessary
12 court documents before the offender may be admitted to treatment.
13 The court documents shall include:

14 1. Waiver of the offender's rights to speedy trial;

15 2. A written plea agreement which sets forth the offense
16 charged, the penalty to be imposed for the offense in the event of a
17 breach of the agreement, and the penalty to be imposed, if any, in
18 the event of a successful completion of the treatment program;
19 provided, however, incarceration shall be prohibited when the
20 offender completes the treatment program;

21 3. A written treatment plan which is subject to modification at
22 any time during the program; and
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1 4. A written performance contract requiring the offender to
2 enter the treatment program as directed by the court and participate
3 until completion, withdrawal, or removal by the court.

4 E. If admission into the drug court program is denied, the
5 criminal case shall be returned to the traditional criminal docket
6 and shall proceed as provided for any other criminal case.

7 F. At the time an offender is admitted to the drug court
8 program, any bail or undertaking on behalf of the offender shall be
9 exonerated.

10 G. The period of time during which an offender may participate
11 in the active treatment portion of the drug court program shall be
12 not less than six (6) months nor more than twenty-four (24) months
13 and may include a period of supervision not less than six (6) months
14 nor more than one (1) year following the treatment portion of the
15 program. All participating treatment providers shall be certified
16 by the Department of Mental Health and Substance Abuse Services and
17 shall be selected and evaluated for performance-based effectiveness
18 annually by the Department of Mental Health and Substance Abuse
19 Services. Treatment programs shall be designed to be completed
20 within twelve (12) months and shall have relapse prevention and
21 evaluation components.

22 H. The drug court judge shall order the offender to pay court
23 costs, treatment costs, drug testing costs, a program user fee not
24 to exceed Twenty Dollars (\$20.00) per month, and necessary

1 supervision fees, unless the offender is indigent. The drug court
2 judge shall establish a schedule for the payment of costs and fees.
3 The cost for treatment, drug testing, and supervision shall be set
4 by the treatment and supervision providers respectively and made
5 part of the court's order for payment. User fees shall be set by
6 the drug court judge within the maximum amount authorized by this
7 subsection and payable directly to the court clerk for the benefit
8 and administration of the drug court program. Treatment, drug
9 testing, and supervision costs shall be paid to the respective
10 providers. The court clerk shall collect all other costs and fees
11 ordered. The remaining user fees shall be remitted to the State
12 Treasurer by the court clerk for deposit in the Department of Mental
13 Health and Substance Abuse Services' Drug Abuse Education and
14 Treatment Revolving Fund established pursuant to Section 2-503.2 of
15 Title 63 of the Oklahoma Statutes. Court orders for costs and fees
16 pursuant to this subsection shall not be limited for purposes of
17 collection to the maximum term of imprisonment for which the
18 offender could have been imprisoned for the offense, nor shall any
19 court order for costs and fees be limited by any term of probation,
20 parole, supervision, treatment, or extension thereof. Court orders
21 for costs and fees shall remain an obligation of the offender until
22 fully paid. Offenders who have not fully paid all costs and fees
23 pursuant to court order but who have otherwise successfully
24 completed the drug court program shall not be counted as an active

1 drug court participant for purposes of drug court contracts or
2 program participant numbers.

3 I. Notwithstanding any other provision of law, if the driving
4 privileges of the offender have been suspended, revoked, cancelled
5 or denied by the Department of Public Safety and if the drug court
6 judge determines that no other means of transportation for the
7 offender is available, the drug court judge may enter a written
8 order requiring the Department of Public Safety to stay any and all
9 such actions against the Class D driving privileges of the offender;
10 provided, the stay shall not be construed to grant driving
11 privileges to an offender who has not been issued a driver license
12 by the Department or whose Oklahoma driver license has expired, in
13 which case the offender shall be required to apply for and be found
14 eligible for a driver license, pass all examinations, if applicable,
15 and pay all statutory driver license issuance or renewal fees. The
16 offender shall provide proof of insurance to the drug court judge
17 prior to the judge ordering a stay of any driver license suspension,
18 revocation, cancellation, or denial. When a judge of a drug court
19 enters a stay against an order by the Department of Public Safety
20 suspending or revoking the driving privileges of an offender, the
21 time period set in the order by the Department for the suspension or
22 revocation shall continue to run during the stay.

23 SECTION 2. This act shall become effective November 1, 2010.

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