

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend the floor substitute (FA1) for House Bill No. 1676, Page 12, Line 24, by inserting a new SECTION 8 to read as attached, by renumbering subsequent sections, and by amending the title to conform.

Submitted by:

Senator Lerblance

Lerblance-TEK-FA3-HB1676
4/2/2009 2:39 PM

1 “SECTION 8. AMENDATORY 22 O.S. 2001, Section 471.1, as amended by Section 1,
2 Chapter 37, O.S.L. 2008 (22 O.S. Supp. 2008, Section 471.1), is amended to read as follows:

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

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

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

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

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

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

20 F. The court may request assistance from the Department of Mental Health and Substance
21 Abuse Services which shall be the primary agency to assist in developing and implementing a drug
22 court program or from any state or local agency in obtaining the necessary treatment services which
23 will assure maximum opportunity for successful treatment, education, and rehabilitation for
24 offenders admitted to the program. All participating state and local agencies are directed to

1 coordinate with each other and cooperate in assisting the district court in establishing a drug court
2 program.

3 G. ~~Each drug court program shall ensure~~ The Administrative Director of the Courts shall
4 promulgate uniform statewide rules to be implemented by drug court programs no later than January
5 1, 2010. Such rules shall supersede any conflicting rules utilized by drug court programs on that
6 date. The uniform rules shall include, but not be limited to:

- 7 1. Strong linkage between participating agencies;
- 8 2. Access by all participating parties of a case to information on the progress of the offender;
- 9 3. Vigilant supervision and monitoring procedures;
- 10 4. Random substance abuse testing;
- 11 5. Provisions for noncompliance, modification of the treatment plan, and revocation
12 proceedings;
- 13 6. Availability of residential treatment facilities and outpatient services;
- 14 7. Payment of court costs, treatment costs, supervision fees, and program user fees by the
15 offender;
- 16 8. Methods for measuring application of disciplinary sanctions, including provisions for:
 - 17 a. increased supervision,
 - 18 b. urinalysis testing,
 - 19 c. intensive treatment,
 - 20 d. short-term confinement not to exceed five (5) days,
 - 21 e. recycling the offender into the program after a disciplinary action for a
22 minimum violation of the treatment plan,
 - 23 f. reinstating the offender into the program after a disciplinary action for a major
24 violation of the treatment plan, and
 - 25 g. revocation from the program; and

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

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

5 I. Nothing in this section shall prohibit any county from establishing a drug court for
6 misdemeanor offenses. Such misdemeanor drug courts shall follow the rules and regulations of
7 felony drug courts except that the penalty for revocation shall not exceed one (1) year in the county
8 jail or the maximum penalty for the misdemeanor allowed by statute, whichever is less. The
9 Department of Mental Health and Substance Abuse Services shall provide technical assistance to the
10 counties that establish misdemeanor drug courts.”