

3 Senate Bill No. 1716

4 SENATE BILL NO. 1716 - By: Laster of the Senate and Inman of the
5 House.

6 An Act relating to drug courts; amending 22 O.S. 2001,
7 Sections 471.7 and 471.9, which relate to monitoring of
8 treatment progress and completion of program; adding grounds
9 for revocation from certain program; modifying filing
10 requirements for certain order; decreasing time period for
11 destruction of certain file; and providing an effective
12 date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.7, is
15 amended to read as follows:

16 Section 471.7 A. The designated drug court judge shall make
17 all judicial decisions concerning any case assigned to the drug
18 court docket or program. The judge shall require progress reports
19 and a periodic review of each offender during his or her period of
20 participation in the drug court program or for purposes of
21 collecting costs and fees after completion of the treatment portion
22 of the program. Reports from the treatment providers and the
23 supervising staff shall be presented to the drug court judge as
24 specified by the treatment plan or as ordered by the court.

25 B. Upon the written or oral motion of the treatment provider,
26 the district attorney, the defense attorney, the defendant, or the
27 supervising staff, the drug court judge shall set a date for a

1 hearing to review the offender, the treatment plan, and the
2 provisions of the performance contract. Notice shall be given to
3 the offender and the other parties participating in the drug court
4 case three (3) days before the hearing may be held.

5 C. The judge may establish a regular schedule for progress
6 hearings for any offender in the drug court program. The district
7 attorney shall not be required to attend regular progress hearings,
8 but shall be required to be present upon the motion of any party to
9 a drug court case.

10 D. The treatment provider, the supervising staff, the district
11 attorney, and the defense attorney shall be allowed access to all
12 information in the offender's drug court case file and all
13 information presented to the judge at any periodic review or
14 progress hearing.

15 E. The drug court judge shall recognize relapses and restarts
16 in the program which are considered to be part of the rehabilitation
17 and recovery process. The judge shall accomplish monitoring and
18 offender accountability by ordering progressively increasing
19 sanctions or providing incentives, rather than removing the offender
20 from the program when relapse occurs, except when the offender's
21 conduct requires revocation from the program. Any revocation from
22 the drug court program shall require notice to the offender and
23 other participating parties in the case and a revocation hearing.

1 At the revocation hearing, if the offender is found to have violated
2 the conditions of the plea agreement or performance contract and
3 disciplinary sanctions have been insufficient to gain compliance or
4 the offender's willful absence from the program has prevented the
5 imposition of sanctions, the offender shall be revoked from the
6 program and sentenced for the offense as provided in the plea
7 agreement.

8 F. Upon application of any participating party to a drug court
9 case, the judge may modify a treatment plan at any hearing when it
10 is determined that the treatment is not benefiting the offender.
11 The primary objective of the judge in monitoring the progress of the
12 offender and the treatment plan shall be to keep the offender in
13 treatment for a sufficient time to change behaviors and attitudes.
14 Modification of the treatment plan requires a consultation with the
15 treatment provider, supervising staff, district attorney, and the
16 defense attorney in open court.

17 G. The judge shall be prohibited from amending the written plea
18 agreement after an offender has been admitted to the drug court
19 program. Nothing in this provision shall be construed to limit the
20 authority of the judge to remove an offender from the program and
21 impose the required punishment stated in the plea agreement after
22 application, notice, and hearing.

1 SECTION 2. AMENDATORY 22 O.S. 2001, Section 471.9, is
2 amended to read as follows:

3 Section 471.9 A. When an offender has successfully completed
4 the drug court program, the criminal case against the offender shall
5 be:

6 1. Dismissed if the offense was a first felony offense; or

7 2. If the offender has a prior felony conviction, the
8 disposition shall be as specified in the written plea agreement.

9 B. The final disposition order for a drug court case shall be
10 ~~filed with the judge assigned to the case, and shall indicate the~~
11 ~~sentence specified in the written plea agreement. A copy of the~~
12 ~~final disposition order for the drug court case shall also be filed~~
13 in the original criminal case file under the control of the court
14 clerk which is open to the public for inspection. Original criminal
15 case files which are under the control of the court clerk and which
16 are subsequently assigned to the drug court program shall be marked
17 with a pending notation until a final disposition order is entered
18 in the drug court case. After an offender completes the program,
19 the drug court case file shall be sealed by the judge assigned to
20 the case. Such file shall be stored in accordance with an
21 administrative order issued by the presiding judge and may be
22 destroyed after ~~ten (10)~~ five (5) years. The district attorney

1 shall have access to sealed drug court case files without a court
2 order.

3 C. A record pertaining to an offense resulting in a successful
4 completion of a drug court program shall not, without the offender's
5 consent in writing, be used in any way which could result in the
6 denial of any employee benefit.

7 D. Successful completion of a drug court program shall not
8 prohibit any administrative agency from taking disciplinary action
9 against any licensee or from denying a license or privilege as may
10 be required by law.

11 SECTION 3. This act shall become effective November 1, 2010.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-9-10 - DO PASS,
13 As Coauthored.