

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1795

By: Lerblance

4  
5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Drug Court Act;  
8 amending 22 O.S. 2001, Section 471.1, as last amended  
9 by Section 131, Chapter 234, O.S.L. 2009 (22 O.S.  
10 Supp. 2009, Section 471.1), which relates to  
11 authorization of drug court programs; requiring  
12 establishment of drug court programs; requiring  
13 promulgation and implementation of certain uniform  
14 rules; providing an effective date; and declaring an  
15 emergency.

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

17 SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.1, as  
18 last amended by Section 131, Chapter 234, O.S.L. 2009 (22 O.S. Supp.  
19 2009, Section 471.1), is amended to read as follows:

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

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

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

16        D. Drug court programs shall require a separate judicial  
17 processing system differing in practice and design from the  
18 traditional adversarial criminal prosecution and trial systems.  
19 Whenever possible, a drug court team shall be designated consisting  
20 of a judge to administer the program, a district attorney, a defense  
21 attorney, and other persons designated by the drug court team who  
22 shall have appropriate understanding of the goals of the program and  
23 of the appropriate treatment methods for the various conditions.  
24 The assignment of any person to the drug court team shall not

1 preclude the assigned person from performing other duties required  
2 in the course of their office or employment. The chief judge of the  
3 judicial district, or if the district has more than one chief judge  
4 than the presiding judge of the Administrative Judicial District,  
5 shall designate one or more judges to administer the drug court  
6 program. The assignment of any judge to a drug court program or the  
7 designation of a drug court docket shall not mandate the assignment  
8 of all substance abuse related cases to the drug court docket or the  
9 program; however, nothing in this act shall be construed to preclude  
10 the assignment of all criminal cases relating to substance abuse or  
11 drug possession as provided by the rules established for the  
12 specific drug court program.

13 E. ~~When a drug court program is established, the~~ An arresting  
14 officer shall file the criminal case record for ~~potentially eligible~~  
15 offenders potentially eligible for the drug court program with the  
16 district attorney within four (4) days of the arrest. The district  
17 attorney shall file an information in the case within twenty-four  
18 (24) hours of receipt of the criminal case record when the offender  
19 appears eligible for consideration for the program. The information  
20 may be amended as necessary when an offender is denied admittance  
21 into the drug court program or for other purposes as provided in  
22 Section 304 of this title. Any person arrested upon a warrant for  
23 his or her arrest shall not be eligible for the drug court program  
24 without the approval of the district attorney. Any criminal case

1 which has been filed and processed in the traditional manner shall  
2 be cross-referenced to a drug court case file by the court clerk, if  
3 the case is subsequently assigned to the drug court program. The  
4 originating criminal case file shall remain open to public  
5 inspection. The judge shall determine what information or pleadings  
6 are to be retained in the drug court case file, which shall be  
7 closed to public inspection.

8 F. The court may request assistance from the Department of  
9 Mental Health and Substance Abuse Services which shall be the  
10 primary agency to assist in developing and implementing a drug court  
11 program or from any state or local agency in obtaining the necessary  
12 treatment services which will assure maximum opportunity for  
13 successful treatment, education, and rehabilitation for offenders  
14 admitted to the program. All participating state and local agencies  
15 are directed to coordinate with each other and cooperate in  
16 assisting the district court in establishing a drug court program.

17 G. ~~Each drug court program shall ensure~~ The Administrative  
18 Director of the Courts shall promulgate uniform statewide rules to  
19 be implemented by drug court programs no later than January 1, 2011.  
20 Such rules shall supersede any conflicting rules utilized by drug  
21 court programs on that date. The uniform rules shall include, but  
22 not be limited to:

23 1. Strong linkage between participating agencies;

24

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

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

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

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

15 SECTION 2. This act shall become effective July 1, 2010.

16 SECTION 3. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20

21 52-2-2718 TEK 2/3/2010 6:25:58 PM

22

23

24