

1 ENGROSSED HOUSE
2 BILL NO. 2636

By: Schwartz, McDaniel
(Jeannie) and Shelton of
the House

3
4 and

Crain of the Senate

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8 An Act relating to drug courts; amending 22 O.S.
9 2011, Section 471.6, which relates to the Oklahoma
10 Drug Court Act; authorizing judge to enter certain
11 order; construing provision; providing exceptions;
12 requiring proof of insurance prior to issuance of
13 certain order; amending 22 O.S. 2011, Section 988.8,
14 which relates to community sentencing; providing
15 procedure for staying court to enter certain written
16 orders to restore Class D driving privileges;
17 providing restrictions and exclusions; directing the
18 Department of Pubic Safety to make certain
19 designation in driving records under certain
20 circumstances; providing exceptions; requiring
21 certain electronic notification to the Department of
22 Public Safety; directing the Department of Public
23 Safety to promulgate certain rules; providing for
24 codification; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.6, is
amended to read as follows:

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

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

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

6 3. Whether or not there is a written plea agreement, and if so,
7 whether the terms and conditions of the written negotiated plea
8 between the district attorney, the defense attorney, and the
9 offender are appropriate and consistent with the penalty provisions
10 and conditions of other similar cases;

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

14 5. Any information relevant to determining eligibility;
15 provided, however, an offender shall not be denied admittance to any
16 drug court program based upon an inability to pay court costs or
17 other costs or fees.

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

21 1. The required treatment plan and plea agreement have not been
22 completed;

23 2. The program funding or availability of treatment has been
24 exhausted;

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

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

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

7 C. At the final eligibility hearing, if evidence is presented
8 that was not discovered by the drug court investigation, the
9 district attorney or the defense attorney may make an objection and
10 may ask the court to withdraw the plea agreement previously
11 negotiated. The court shall determine whether to proceed and
12 overrule the objection, to sustain the objection and transfer the
13 case for traditional criminal prosecution, or to require further
14 negotiations of the plea or punishment provisions. The decision of
15 the judge for or against eligibility and admission shall be final.

16 D. When the court accepts the treatment plan with the written
17 plea agreement, the offender, upon entering the plea as agreed by
18 the parties, shall be ordered and escorted immediately into the
19 program. The offender must have voluntarily signed the necessary
20 court documents before the offender may be admitted to treatment.
21 The court documents shall include:

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

23 2. A written plea agreement which sets forth the offense
24 charged, the penalty to be imposed for the offense in the event of a

1 breach of the agreement, and the penalty to be imposed, if any, in
2 the event of a successful completion of the treatment program;
3 provided, however, incarceration shall be prohibited when the
4 offender completes the treatment program;

5 3. A written treatment plan which is subject to modification at
6 any time during the program; and

7 4. A written performance contract requiring the offender to
8 enter the treatment program as directed by the court and participate
9 until completion, withdrawal, or removal by the court.

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

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

16 G. The period of time during which an offender may participate
17 in the active treatment portion of the drug court program shall be
18 not less than six (6) months nor more than twenty-four (24) months
19 and may include a period of supervision not less than six (6) months
20 nor more than one (1) year following the treatment portion of the
21 program. The period of supervision may be extended by order of the
22 court for not more than six (6) months. No treatment dollars shall
23 be expended on the offender during the extended period of
24 supervision. If the court orders that the period of supervision

1 shall be extended, the drug court judge, district attorney, the
2 attorney for the offender, and the supervising staff for the drug
3 court program shall evaluate the appropriateness of continued
4 supervision on a quarterly basis. All participating treatment
5 providers shall be certified by the Department of Mental Health and
6 Substance Abuse Services and shall be selected and evaluated for
7 performance-based effectiveness annually by the Department of Mental
8 Health and Substance Abuse Services. Treatment programs shall be
9 designed to be completed within twelve (12) months and shall have
10 relapse prevention and evaluation components.

11 H. The drug court judge shall order the offender to pay court
12 costs, treatment costs, drug testing costs, a program user fee not
13 to exceed Twenty Dollars (\$20.00) per month, and necessary
14 supervision fees, unless the offender is indigent. The drug court
15 judge shall establish a schedule for the payment of costs and fees.
16 The cost for treatment, drug testing, and supervision shall be set
17 by the treatment and supervision providers respectively and made
18 part of the court's order for payment. User fees shall be set by
19 the drug court judge within the maximum amount authorized by this
20 subsection and payable directly to the court clerk for the benefit
21 and administration of the drug court program. Treatment, drug
22 testing, and supervision costs shall be paid to the respective
23 providers. The court clerk shall collect all other costs and fees
24 ordered. The remaining user fees shall be remitted to the State

1 Treasurer by the court clerk for deposit in the Department of Mental
2 Health and Substance Abuse Services' Drug Abuse Education and
3 Treatment Revolving Fund established pursuant to Section 2-503.2 of
4 Title 63 of the Oklahoma Statutes. Court orders for costs and fees
5 pursuant to this subsection shall not be limited for purposes of
6 collection to the maximum term of imprisonment for which the
7 offender could have been imprisoned for the offense, nor shall any
8 court order for costs and fees be limited by any term of probation,
9 parole, supervision, treatment, or extension thereof. Court orders
10 for costs and fees shall remain an obligation of the offender until
11 fully paid. Offenders who have not fully paid all costs and fees
12 pursuant to court order but who have otherwise successfully
13 completed the drug court program shall not be counted as an active
14 drug court participant for purposes of drug court contracts or
15 program participant numbers.

16 I. Notwithstanding any other provision of law, if the driving
17 privileges of the offender have been suspended, revoked, cancelled
18 or denied by the Department of Public Safety and if the drug court
19 judge determines that no other means of transportation for the
20 offender is available, the drug court judge may enter a written
21 order requiring the Department of Public Safety to stay any and all
22 such actions against the Class D driving privileges of the offender;
23 provided, the stay shall not be construed to grant driving
24 privileges to an offender who has not been issued a driver license

1 by the Department or whose Oklahoma driver license has expired, in
2 which case the offender shall be required to apply for and be found
3 eligible for a driver license, pass all examinations, if applicable,
4 and pay all statutory driver license issuance or renewal fees. The
5 offender shall provide proof of insurance to the drug court judge
6 prior to the judge ordering a stay of any driver license suspension,
7 revocation, cancellation, or denial. When a judge of a drug court
8 enters a stay against an order by the Department of Public Safety
9 suspending or revoking the driving privileges of an offender, the
10 time period set in the order by the Department for the suspension or
11 revocation shall continue to run during the stay.

12 J. Notwithstanding any other provision of law, the drug court
13 judge may enter a written order directing the Department of Public
14 Safety to restore the Class D driving privileges of any offender who
15 has successfully completed the drug court program; provided, the
16 suspension, revocation, cancellation or denial is not related to any
17 drug- or alcohol-related offense other than the one for which the
18 participant is serving in drug court and the participant has paid
19 all reinstatement fees and has met all conditions for reinstatement
20 of driving privileges as required by the Department of Public
21 Safety. Further, the order shall not be construed to grant driving
22 privileges to an offender who has not been issued a driver license
23 by the Department or whose Oklahoma driver license has expired, in
24 which case the offender shall be required to apply for and be found

1 eligible for a driver license, pass all examinations, if applicable,
2 and pay all statutory driver license issuance or renewal fees and
3 any outstanding fines, fees or court-ordered restitution. The
4 offender shall provide proof of insurance to the drug court judge
5 prior to the judge ordering a restoration of the Class D driving
6 privileges pursuant to this subsection.

7 SECTION 2. AMENDATORY 22 O.S. 2011, Section 988.8, is
8 amended to read as follows:

9 Section 988.8 A. A community sentencing system established
10 pursuant to the provisions of the Oklahoma Community Sentencing Act
11 shall include those community punishments and programs and services
12 enumerated and funded in the annual plan submitted to the Community
13 Sentencing Division within the Department of Corrections and any
14 other services or punishments subsequently added and funded during a
15 plan year. The options may not be utilized for offenders not
16 meeting the eligibility criteria of programs and score requirements
17 for the Level of Services Inventory (LSI) or other approved
18 assessment. Each local system shall strive to have available to the
19 court all of the following services for eligible offenders:

- 20 1. Community service with or without compensation to the
21 offender;
- 22 2. Substance abuse treatment and availability for periodic drug
23 testing of offenders following treatment;

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1 3. Varying levels of supervision by the Department of
2 Corrections probation officers or another qualified supervision
3 source;

4 4. Education and literacy provided by the State Department of
5 Education, the county library system, the local school board, or
6 another qualified source;

7 5. Employment opportunities and job skills training provided by
8 the Oklahoma Department of Career and Technology Education or
9 another qualified source;

10 6. Enforced collections provided by the local court clerk, or
11 another state agency; and

12 7. The availability of county jail or another restrictive
13 housing facility for limited disciplinary sanctions.

14 B. The court may order as a community punishment for an
15 eligible offender any condition listed as a condition available for
16 a suspended sentence.

17 C. In all cases in which an offender is sentenced to a
18 community punishment, the offender shall be ordered as part of the
19 terms and conditions of the sentence to pay for the court ordered
20 sanction, based upon ability to pay. Payments may be as provided by
21 court order or pursuant to periodic payment schedules established by
22 the service provider. If the offender does not have the financial
23 ability to pay for the court ordered sanction, payment shall be made
24 from funds budgeted for the local community sentencing system.

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

21 E. Notwithstanding any other provision of law, the court may
22 enter a written order directing the Department of Public Safety to
23 restore the Class D driving privileges of any offender who has
24 successfully completed all terms and conditions of a community

1 punishment; provided, the suspension, revocation, cancellation or
2 denial is not related to any drug- or alcohol-related offense other
3 than the one for which the offender is serving in community
4 punishment and the offender has paid all reinstatement fees and has
5 met all conditions for reinstatement of driving privileges as
6 required by the Department of Public Safety. Further, the order
7 shall not be construed to grant driving privileges to an offender
8 who has not been issued a driver license by the Department or whose
9 Oklahoma driver license has expired, in which case the offender
10 shall be required to apply for and be found eligible for a driver
11 license, pass all examinations, if applicable, pay all statutory
12 driver license issuance or renewal fees and any outstanding fines,
13 fees or court-ordered restitution. The offender shall provide proof
14 of insurance to the court prior to the court ordering a restoration
15 of the Class D driving privileges pursuant to this subsection.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6-212.4 of Title 47, unless
18 there is created a duplication in numbering, reads as follows:

19 A. Upon receipt of a written order issued by a drug court judge
20 that the Class D driving privileges for a participant who has
21 successfully completed a drug court program shall be restored, the
22 Department of Public Safety shall designate in the records of the
23 Department that all driver license revocation, suspension,
24 cancellation or denial periods shall be considered satisfied;

1 provided, the revocation, suspension, cancellation or denial of the
2 driver license is not related to any drug- or alcohol-related
3 offense other than the offense for which the participant is serving
4 in drug court and the participant has paid all reinstatement fees
5 and has met all conditions for reinstatement of driving privileges
6 as required by the Department of Public Safety. Further, the
7 Department may decline to waive the periods of revocation,
8 suspension, cancellation or denial if the Department finds that the
9 drug court participant has committed an offense subsequent to
10 successful completion of the drug court program that would require
11 revocation, suspension, cancellation or denial of said driver
12 license.

13 B. Electronic notification of the successful completion by a
14 participant of the drug court program shall be provided to the
15 Department of Public Safety by the court clerk in the county where
16 the drug court program is situated. The electronic notification of
17 successful completion shall be consistent with the provisions of
18 Section 18-101 of Title 47 of the Oklahoma Statutes or by any other
19 method approved by the Department of Public Safety.

20 C. The Department of Public Safety shall promulgate rules
21 necessary to implement and administer the provisions of this
22 section.

23 SECTION 4. This act shall become effective November 1, 2012.
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