

1 ENGROSSED HOUSE
2 BILL NO. 2944

By: Derby, Sherrer and Jackson
of the House

3 and

4 Johnson (Rob) of the Senate
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8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 471.1, which relates to the
10 Oklahoma Drug Court Act; authorizing municipalities
11 to establish misdemeanor drug courts; requiring
12 alcohol and drug substance abuse evaluations and
13 assessments for drug court participants; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, is
17 amended to read as follows:

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

24 B. Each district court of this state is authorized to establish
a drug court program pursuant to the provisions of this act, subject

1 to availability of funds. Juvenile drug courts may be established
2 based upon the provisions of this act; provided, however, juveniles
3 shall not be held, processed, or treated in any manner which
4 violates any provision of Title 10A of the Oklahoma Statutes.

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

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

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

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

1 remain open to public inspection. The judge shall determine what
2 information or pleadings are to be retained in the drug court case
3 file, which shall be closed to public inspection.

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

13 G. Each drug court program shall ensure, but not be limited to:

- 14 1. Strong linkage between participating agencies;
- 15 2. Access by all participating parties of a case to information
16 on the progress of the offender;
- 17 3. Vigilant supervision and monitoring procedures;
- 18 4. Random substance abuse testing;
- 19 5. Provisions for noncompliance, modification of the treatment
20 plan, and revocation proceedings;
- 21 6. Availability of residential treatment facilities and
22 outpatient services;
- 23 7. Payment of court costs, treatment costs, supervision fees,
24 and program user fees by the offender;

1 8. Methods for measuring application of disciplinary sanctions,
2 including provisions for:

- 3 a. increased supervision,
- 4 b. urinalysis testing,
- 5 c. intensive treatment,
- 6 d. short-term confinement not to exceed five (5) days,
- 7 e. recycling the offender into the program after a
8 disciplinary action for a minimum violation of the
9 treatment plan,
- 10 f. reinstating the offender into the program after a
11 disciplinary action for a major violation of the
12 treatment plan, and
- 13 g. revocation from the program; and

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

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

19 I. Nothing in this section shall prohibit any county from
20 establishing a drug court for misdemeanor offenses. Such
21 misdemeanor drug courts shall follow the rules and regulations of
22 felony drug courts except that the penalty for revocation shall not
23 exceed one (1) year in the county jail or the maximum penalty for
24 the misdemeanor allowed by statute, whichever is less. The

1 Department of Mental Health and Substance Abuse Services shall
2 provide technical assistance to the counties that establish
3 misdemeanor drug courts.

4 J. Nothing in this section shall prohibit any municipality from
5 establishing a drug court for municipal ordinance violations
6 including violations relating to driving a motor vehicle while under
7 the influence of alcohol or other intoxicating substance. 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 six (6) months in the city jail or the maximum penalty for
11 the misdemeanor allowed by municipal ordinance, whichever is less.

12 The Department of Mental Health and Substance Abuse Services shall
13 provide technical assistance to the municipalities that establish
14 misdemeanor drug courts.

15 K. Should a county or municipality elect to establish a drug
16 court, the county or municipality shall order an alcohol and drug
17 substance abuse evaluation and assessment of the offender as
18 described in Section 11-902 of Title 47 of the Oklahoma Statutes and
19 shall require the offender to meet the education and treatment
20 requirements resulting from the evaluation and assessment.

21 SECTION 2. This act shall become effective November 1, 2012.
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