

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2636

By: Schwartz

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5
6 AS INTRODUCED

7 An Act relating to drug courts; amending 22 O.S.
8 2011, Section 471.6, which relates to the Oklahoma
9 Drug Court Act; authorizing judge to enter certain
10 order; construing provision; providing exceptions;
11 requiring proof of insurance prior to issuance of
12 certain order; directing the Department of Public
13 Safety to make certain designation in driving records
14 under certain circumstances; providing exceptions;
15 requiring certain electronic notification to the
16 Department of Public Safety; directing the Department
17 of Public Safety to promulgate certain rules;
18 providing for codification; and providing an
19 effective date.

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

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

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

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

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

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

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

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

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

19 1. The required treatment plan and plea agreement have not been
20 completed;

21 2. The program funding or availability of treatment has been
22 exhausted;

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

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

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

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

20 The court documents shall include:

- 21 1. Waiver of the offender's rights to speedy trial;
- 22 2. A written plea agreement which sets forth the offense
23 charged, the penalty to be imposed for the offense in the event of a
24 breach of the agreement, and the penalty to be imposed, if any, in

1 the event of a successful completion of the treatment program;
2 provided, however, incarceration shall be prohibited when the
3 offender completes the treatment program;

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

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

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

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

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

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

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

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

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

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

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

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

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6-212.4 of Title 47, unless
8 there is created a duplication in numbering, reads as follows:

9 A. Upon receipt of a written order issued by a drug court judge
10 that the Class D driving privileges for a participant who has
11 successfully completed a drug court program shall be restored, the
12 Department of Public Safety shall designate in the records of the
13 Department that all driver license revocation, suspension,
14 cancellation or denial periods shall be considered satisfied;
15 provided, the revocation, suspension, cancellation or denial of the
16 driver license is not related to any drug- or alcohol-related
17 offense other than the offense for which the participant is serving
18 in drug court and the participant has paid all reinstatement fees
19 and has met all conditions for reinstatement of driving privileges
20 as required by the Department of Public Safety. Further, the
21 Department may decline to waive the periods of revocation,
22 suspension, cancellation or denial if the Department finds that the
23 drug court participant has committed an offense subsequent to
24 successful completion of the drug court program that would require

1 revocation, suspension, cancellation or denial of said driver
2 license.

3 B. Electronic notification of the successful completion by a
4 participant of the drug court program shall be provided to the
5 Department of Public Safety by the court clerk in the county where
6 the drug court program is situated. The electronic notification of
7 successful completion shall be consistent with the provisions of
8 Section 18-101 of Title 47 of the Oklahoma Statutes or by any other
9 method approved by the Department of Public Safety.

10 C. The Department of Public Safety shall promulgate rules
11 necessary to implement and administer the provisions of this
12 section.

13 SECTION 3. This act shall become effective November 1, 2012.

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