

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2939

By: McCullough

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 471.6, which relates to the  
9 Oklahoma Drug Court Act; increasing certain time  
10 limitation; and providing an effective date.

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

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

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

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

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

23 3. Whether or not there is a written plea agreement, and if so,  
24 whether the terms and conditions of the written negotiated plea

1 between the district attorney, the defense attorney, and the  
2 offender are appropriate and consistent with the penalty provisions  
3 and conditions of other similar cases;

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

7 5. Any information relevant to determining eligibility;  
8 provided, however, an offender shall not be denied admittance to any  
9 drug court program based upon an inability to pay court costs or  
10 other costs or fees.

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

14 1. The required treatment plan and plea agreement have not been  
15 completed;

16 2. The program funding or availability of treatment has been  
17 exhausted;

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

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

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

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

10 D. When the court accepts the treatment plan with the written  
11 plea agreement, the offender, upon entering the plea as agreed by  
12 the parties, shall be ordered and escorted immediately into the  
13 program. The offender must have voluntarily signed the necessary  
14 court documents before the offender may be admitted to treatment.  
15 The court documents shall include:

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

17 2. A written plea agreement which sets forth the offense  
18 charged, the penalty to be imposed for the offense in the event of a  
19 breach of the agreement, and the penalty to be imposed, if any, in  
20 the event of a successful completion of the treatment program;  
21 provided, however, incarceration shall be prohibited when the  
22 offender completes the treatment program;

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

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

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

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

10 G. The period of time during which an offender may participate  
11 in the active treatment portion of the drug court program shall be  
12 not less than six (6) months nor more than twenty-four (24) months  
13 and may include a period of supervision not less than six (6) months  
14 nor more than ~~one (1) year~~ two (2) years following the treatment  
15 portion of the program. The period of supervision may be extended  
16 by order of the court for not more than ~~six (6) months~~ one (1) year.  
17 No treatment dollars shall be expended on the offender during the  
18 extended period of supervision. If the court orders that the period  
19 of supervision shall be extended, the drug court judge, the district  
20 attorney, the attorney for the offender, and the supervising staff  
21 for the drug court program shall evaluate the appropriateness of  
22 continued supervision on a quarterly basis. All participating  
23 treatment providers shall be certified by the Department of Mental  
24 Health and Substance Abuse Services and shall be selected and

1 evaluated for performance-based effectiveness annually by the  
2 Department of Mental Health and Substance Abuse Services. Treatment  
3 programs shall be designed to be completed within twelve (12) months  
4 and shall have relapse prevention and evaluation components.

5 H. The drug court judge shall order the offender to pay court  
6 costs, treatment costs, drug testing costs, a program user fee not  
7 to exceed Twenty Dollars (\$20.00) per month, and necessary  
8 supervision fees, unless the offender is indigent. The drug court  
9 judge shall establish a schedule for the payment of costs and fees.  
10 The cost for treatment, drug testing, and supervision shall be set  
11 by the treatment and supervision providers respectively and made  
12 part of the court's order for payment. User fees shall be set by  
13 the drug court judge within the maximum amount authorized by this  
14 subsection and payable directly to the court clerk for the benefit  
15 and administration of the drug court program. Treatment, drug  
16 testing, and supervision costs shall be paid to the respective  
17 providers. The court clerk shall collect all other costs and fees  
18 ordered. The remaining user fees shall be remitted to the State  
19 Treasurer by the court clerk for deposit in the Department of Mental  
20 Health and Substance Abuse Services' Drug Abuse Education and  
21 Treatment Revolving Fund established pursuant to Section 2-503.2 of  
22 Title 63 of the Oklahoma Statutes. Court orders for costs and fees  
23 pursuant to this subsection shall not be limited for purposes of  
24 collection to the maximum term of imprisonment for which the

1 offender could have been imprisoned for the offense, nor shall any  
2 court order for costs and fees be limited by any term of probation,  
3 parole, supervision, treatment, or extension thereof. Court orders  
4 for costs and fees shall remain an obligation of the offender until  
5 fully paid. Offenders who have not fully paid all costs and fees  
6 pursuant to court order but who have otherwise successfully  
7 completed the drug court program shall not be counted as an active  
8 drug court participant for purposes of drug court contracts or  
9 program participant numbers.

10 I. Notwithstanding any other provision of law, if the driving  
11 privileges of the offender have been suspended, revoked, cancelled  
12 or denied by the Department of Public Safety and if the drug court  
13 judge determines that no other means of transportation for the  
14 offender is available, the drug court judge may enter a written  
15 order requiring the Department of Public Safety to stay any and all  
16 such actions against the Class D driving privileges of the offender;  
17 provided, the stay shall not be construed to grant driving  
18 privileges to an offender who has not been issued a driver license  
19 by the Department or whose Oklahoma driver license has expired, in  
20 which case the offender shall be required to apply for and be found  
21 eligible for a driver license, pass all examinations, if applicable,  
22 and pay all statutory driver license issuance or renewal fees. The  
23 offender shall provide proof of insurance to the drug court judge  
24 prior to the judge ordering a stay of any driver license suspension,

1 revocation, cancellation, or denial. When a judge of a drug court  
2 enters a stay against an order by the Department of Public Safety  
3 suspending or revoking the driving privileges of an offender, the  
4 time period set in the order by the Department for the suspension or  
5 revocation shall continue to run during the stay.

6 SECTION 2. This act shall become effective November 1, 2016.

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8 55-2-7600 GRS 12/21/15

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