

## FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2290

			Of the printed Bill
Page	<u>2-12</u>	Section	<u>1 &amp; 2</u>
		Lines	<u>1</u>
			Of the Engrossed Bill

By removing Sections 1 and 2 from the bill in their entirety and inserting in lieu thereof, new Sections 1 and 2 to read as follows:

(see attached);

Pages 14-20, Section 4, Line 8:

By removing Section 4 from the bill in its entirety and inserting in lieu thereof, new Section 4 to read as follows:

(see attached);

Page 20, Section 5, Line 13:

By inserting a new Section 5 to read as follows:

(see attached)

and by renumbering the subsequent sections of the bill;

Page 21, Section 5, Line 6:

By inserting after the comma ",", the word "or"; and

Page 21, Section 5, Line 7-8:

By deleting subparagraph "c" in its entirety beginning with the word "sentence" through the letter "d." on Line 8.

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Scott Biggs

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 "SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as  
2 amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2016,  
3 Section 471.1), is amended to read as follows:

4 Section 471.1 A. For purposes of this act, "drug court", "drug  
5 court program" or "program" means an immediate and highly structured  
6 judicial intervention process for substance abuse treatment of  
7 eligible offenders which expedites the criminal case, and requires  
8 successful completion of the plea agreement.

9 B. Each district court of this state is authorized to establish  
10 a drug court program pursuant to the provisions of this act, subject  
11 to availability of funds. Juvenile drug courts may be established  
12 based upon the provisions of this act; provided, however, juveniles  
13 shall not be held, processed, or treated in any manner which  
14 violates any provision of Title 10A of the Oklahoma Statutes.

15 C. Drug court programs shall not apply to any violent criminal  
16 offense unless the restriction is individually waived by both the  
17 district attorney and the drug court judge. Eligible offenses may  
18 further be restricted by the rules of the specific drug court  
19 program. Nothing in this act shall be construed to require a drug  
20 court to consider every offender with a treatable condition or  
21 addiction, regardless of the fact that the controlling offense is  
22 eligible for consideration in the program. ~~Traditional prosecution~~  
23 ~~shall be required where an offender is determined not appropriate~~  
24 ~~for the drug court program.~~

1 D. Drug court programs shall require a separate judicial  
2 processing system differing in practice and design from the  
3 traditional adversarial criminal prosecution and trial systems.  
4 Whenever possible, a drug court team shall be designated consisting  
5 of a judge to administer the program, a district attorney, a defense  
6 attorney, and other persons designated by the drug court team who  
7 shall have appropriate understanding of the goals of the program and  
8 of the appropriate treatment methods for the various conditions.  
9 The assignment of any person to the drug court team shall not  
10 preclude the assigned person from performing other duties required  
11 in the course of their office or employment. The chief judge of the  
12 judicial district, or if the district has more than one chief judge  
13 than the presiding judge of the Administrative Judicial District,  
14 shall designate one or more judges to administer the drug court  
15 program. The assignment of any judge to a drug court program or the  
16 designation of a drug court docket shall not mandate the assignment  
17 of all substance abuse related cases to the drug court docket or the  
18 program; however, nothing in this act shall be construed to preclude  
19 the assignment of all criminal cases relating to substance abuse or  
20 drug possession as provided by the rules established for the  
21 specific drug court program.

22 E. When a drug court program is established, the arresting  
23 officer shall file the criminal case record for potentially eligible  
24 offenders with the district attorney within four (4) days of the

1 arrest. The district attorney shall file an information in the case  
2 within twenty-four (24) hours of receipt of the criminal case record  
3 when the offender appears eligible for consideration for the  
4 program. The information may be amended as necessary when an  
5 offender is denied admittance into the drug court program or for  
6 other purposes as provided in Section 304 of this title. Any person  
7 arrested upon a warrant for his or her arrest shall not be eligible  
8 for the drug court program without the approval of the district  
9 attorney. Any criminal case which has been filed and processed in  
10 the traditional manner shall be cross-referenced to a drug court  
11 case file by the court clerk, if the case is subsequently assigned  
12 to the drug court program. The originating criminal case file shall  
13 remain open to public inspection. The judge shall determine what  
14 information or pleadings are to be retained in the drug court case  
15 file, which shall be closed to public inspection.

16 F. The court may request assistance from the Department of  
17 Mental Health and Substance Abuse Services which shall be the  
18 primary agency to assist in developing and implementing a drug court  
19 program or from any state or local agency in obtaining the necessary  
20 treatment services which will assure maximum opportunity for  
21 successful treatment, education, and rehabilitation for offenders  
22 admitted to the program. All participating state and local agencies  
23 are directed to coordinate with each other and cooperate in  
24 assisting the district court in establishing a drug court program.

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

2 1. ~~Strong linkage between participating agencies~~ Integration of  
3 evidence-based treatment interventions with justice system case  
4 processing;

5 2. ~~Access by all participating parties of a case to information~~  
6 ~~on the progress of the offender~~ Using a nonadversarial approach by  
7 the prosecution and defense counsel for purposes of promoting public  
8 safety while protecting the due process rights of participants;

9 3. ~~Vigilant supervision and monitoring procedures~~ Eligible  
10 participants are identified early and promptly placed into the drug  
11 court program;

12 4. ~~Random substance abuse testing~~ Access to a continuum of  
13 alcohol, drug and other related treatment and rehabilitation  
14 services;

15 5. ~~Provisions for noncompliance, modification of the treatment~~  
16 ~~plan, and revocation proceedings~~ Abstinence is monitored by frequent  
17 and randomized alcohol testing and other drug testing;

18 6. ~~Availability of residential treatment facilities and~~  
19 ~~outpatient services~~ A coordinated strategy governs drug court  
20 responses to the compliance of participants, including disciplinary  
21 sanction and incentives. When short-term jail confinement is used  
22 as a disciplinary sanction, confinement shall not exceed five (5)  
23 days;

1       7. ~~Payment of court costs, treatment costs, supervision fees,~~  
2 ~~and program user fees by the offender~~ Ongoing judicial interaction  
3 with each drug court participant;

4       8. ~~Methods for measuring application of disciplinary sanctions,~~  
5 ~~including provisions for:~~

6           a. ~~increased supervision,~~

7           b. ~~urinalysis testing,~~

8           c. ~~intensive treatment,~~

9           d. ~~short-term confinement not to exceed five (5) days,~~

10          e. ~~recycling the offender into the program after a~~  
11 ~~disciplinary action for a minimum violation of the~~  
12 ~~treatment plan,~~

13          f. ~~reinstating the offender into the program after a~~  
14 ~~disciplinary action for a major violation of the~~  
15 ~~treatment plan, and~~

16          g. ~~revocation from the program~~ Monitoring and evaluation  
17 to measure achievement of program goals and to gauge  
18 effectiveness; and

19       9. ~~Methods for measuring performance-based effectiveness of~~  
20 ~~each individual treatment provider's services~~ Continuing  
21 interdisciplinary education which promotes effective planning,  
22 implementation and operations; and

23       10. Forging of partnerships among drug courts, public agencies  
24 and community-based organizations.

1 H. All drug court programs shall be required to keep reliable  
2 data ~~on~~ as collected and required by the Department of Mental Health  
3 and Substance Abuse Services including, but not limited to,  
4 recidivism, relapse, restarts, sanctions imposed, and incentives  
5 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 length of participation may be  
10 reduced and penalty for revocation shall not exceed one (1) year in  
11 the county jail or the maximum penalty for the misdemeanor allowed  
12 by statute, whichever is less. The Department of Mental Health and  
13 Substance Abuse Services shall provide technical assistance to the  
14 counties that establish misdemeanor drug courts.

15 J. The Department of Mental Health and Substance Abuse Services  
16 shall assess the effectiveness of the statewide and individual drug  
17 court programs in adhering to the Drug Court Best Practices  
18 Standards established by nationally recognized drug court program  
19 professionals.

20 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.2, as  
21 last amended by Section 2, Chapter 222, O.S.L. 2016 (22 O.S. Supp.  
22 2016, Section 471.2), is amended to read as follows:

23 Section 471.2 A. The initial opportunity for review of an  
24 offender for a drug court program shall occur within four (4) days

1 after the arrest and detention or incarceration of the offender in  
2 the city or county jail, or if an immediate bond release program is  
3 available through the jail, the initial opportunity for review shall  
4 occur in conjunction with the bond release program. When a drug  
5 court is established, the following information shall be initially  
6 reviewed by the sheriff or designee, if the offender is held in a  
7 county jail, or by the chief of police or designee, if the offender  
8 is held in a city jail:

9 1. ~~The offender's~~ Whether the arrest or charge ~~does not involve~~  
10 of the offender involves a crime of violence against any person,  
11 ~~unless there is a specific treatment program in the jurisdiction~~  
12 ~~designed to address domestic violence and the offense is related to~~  
13 ~~domestic violence and substance abuse~~ may be considered on an  
14 individual case basis upon approval from the district attorney and  
15 drug court judge. Approval of domestic-violence-related charges  
16 shall include the presence of a specific treatment program in the  
17 jurisdiction designed to address domestic violence;

18 2. ~~The~~ Whether the offender has ~~no~~ a prior felony conviction in  
19 this state or another state for a violent offense or domestic  
20 violence offense within the last ten (10) years, ~~except as may be~~  
21 ~~allowed in a domestic violence treatment program authorized by the~~  
22 ~~drug court program~~ may be considered on an individual case basis  
23 upon approval of the district attorney and drug court judge. It  
24 shall be sufficient for this paragraph that a criminal history



1 records name search was conducted and indicated no apparent violent  
2 offense;

3 3. ~~The offender's~~ Whether the arrest or charge ~~does not involve~~  
4 of the offender involves a violation of the Trafficking ~~In~~ in  
5 Illegal Drugs Act may be considered on an individual case basis upon  
6 approval from the district attorney or drug court judge;

7 4. The offender has committed a felony offense; ~~and~~

8 5. The offender:

9 a. ~~admits to having a substance abuse addiction,~~

10 b. ~~appears to have a substance abuse addiction,~~

11 c. ~~is known to have a substance abuse addiction,~~

12 d. ~~the~~ arrest or charge of the offender is based upon an  
13 offense eligible for the drug court program, ~~or~~

14 f. ~~is a person who;~~ and

15 6. The offender has had an assessment authorized by Section 3-  
16 704 of Title 43A of the Oklahoma Statutes ~~and,~~ the assessment  
17 indicates the offender has a high or moderate risk to reoffend with  
18 a high treatment need and the assessment recommends the drug court  
19 program. Any offender determined to have a low risk to reoffend  
20 shall not be eligible for participation in the drug court program.

21 B. If it appears to the ~~reviewing officer~~ reviewer that the  
22 offender may be potentially eligible for the drug court program  
23 based upon a review of the information in subsection A of this  
24 section, the offender shall be given an eligibility form which may

1 be voluntarily completed by the offender, and the reviewing officer  
2 shall file the criminal case record within the time prescribed in  
3 subsection E of Section 471.1 of this title. The offender shall not  
4 automatically be considered for the program based upon this review.  
5 The offender must request consideration for the drug court program  
6 as provided in subsection C of this section ~~and shall have approval~~  
7 ~~from the district attorney~~ before being considered for the drug  
8 court program. The eligibility form shall describe the drug court  
9 program for which the offender may be eligible, including, but not  
10 limited to:

11 1. A full description of the drug court process and  
12 investigation;

13 2. A general explanation of the roles and authority of the  
14 supervising staff, the district attorney, the defense attorney, the  
15 treatment provider, the offender, and the judge in the drug court  
16 program;

17 3. A clear statement that the drug court judge may decide after  
18 a hearing not to consider the offender for the drug court program  
19 and in that event the offender will be prosecuted in the traditional  
20 manner;

21 4. A clear statement that the offender is required, before  
22 consideration in the program, to enter a guilty plea as part of a  
23 written plea agreement;

1        5. A clear statement that the plea agreement will specify the  
2 offense to which the guilty plea will be entered and will state any  
3 penalty to be imposed for the offense, both in the event of a  
4 successful completion of the drug court program, and in the event of  
5 a failure to complete the program;

6        6. A clear statement that the offender must voluntarily agree  
7 to:

- 8            a. waive the right to a speedy trial,
- 9            b. waive the right to a preliminary hearing,
- 10           c. the terms and conditions of a treatment plan, and
- 11           d. sign a performance contract with the court;

12        7. A clear statement that the offender, if accepted into the  
13 drug court program, may not be incarcerated for the offense in a  
14 state correctional institution or jail upon successful completion of  
15 the program;

16        8. A clear statement that during participation in the drug  
17 court program should the offender fail to comply with the terms of  
18 the agreement, the offender may be sanctioned to serve a term of  
19 confinement of six (6) months in an intermediate revocation facility  
20 operated by the Department of Corrections. An offender shall not be  
21 allowed to serve more than two separate terms of confinement in an  
22 intermediate revocation facility;

23        9. A clear statement that during participation in the drug  
24 court program should the offender:

- a. fail to comply with the terms of the agreements,
- b. be convicted of a misdemeanor offense which reflects a propensity for violence,
- c. be arrested for a violent felony offense, or
- d. be convicted of any felony offense,

the offender may be required, after a court hearing, to be revoked from the program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

10. An explanation of the criminal record retention and disposition resulting from participation in the drug court program following successful completion of the program.

C. 1. The offender may request consideration for the drug court program as follows:

- a. if the offender is incarcerated, the offender must sign and complete the eligibility form and return it to the sheriff, if the offender is held in the county jail; or to the chief of police, if the offender is held in a city jail. The sheriff or chief of police, upon receipt of the eligibility form, shall file the form with the district attorney at the time of filing the criminal case record or at any time during the period of incarceration when the offender completes the form after the criminal case record has been filed, or

1           b.    after release of the offender from incarceration, the  
2                offender must sign and complete the eligibility form  
3                and file it with the district attorney or the court,  
4                prior to or at the time of either initial appearance  
5                or arraignment.

6           2.   Any offender desiring legal consultation prior to signing or  
7   completing the form for consideration in a drug court program shall  
8   be referred to the defense attorney of the drug court team, or a  
9   public defender, if the offender is indigent, or allowed to consult  
10   with private legal counsel.

11          3.   Nothing contained in the provisions of this subsection shall  
12   prohibit the drug court from considering any offender deemed  
13   eligible for the program at any time prior to sentencing whose case  
14   has been prosecuted in the traditional manner, or upon a violation  
15   of parole or probation conditions relating to substance abuse, upon  
16   recommendation of the district attorney as provided in Section 471.8  
17   of this title.

18          D.   When an offender has filed a voluntary request to be  
19   considered for a drug court program on the appropriate form, the  
20   district attorney shall indicate his or her approval of the request  
21   by filing the form with the drug court judge. Upon the filing of  
22   the request form by the district attorney, an initial hearing shall  
23   be set before the drug court judge. The hearing shall be not less  
24   than three (3) work days nor more than five (5) work days after the

1 date of the filing of the request form. Notice of the hearing shall  
2 be given to the drug court team, or in the event no drug court team  
3 is designated, to the offender, the district attorney, and to the  
4 public defender. The offender shall be required to notify any  
5 private legal counsel of the date and time of the hearing.

6 SECTION 4. AMENDATORY 22 O.S. 2011, Section 471.6, as  
7 last amended by Section 1, Chapter 393, O.S.L. 2016 (22 O.S. Supp.  
8 2016, Section 471.6), is amended to read as follows:

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

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

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

17 3. Whether or not there is a written plea agreement, and if so,  
18 whether the terms and conditions of the written negotiated plea  
19 between the district attorney, the defense attorney, and the  
20 offender are appropriate and consistent with the penalty provisions  
21 and conditions of other similar cases;

22 4. Whether or not there is an appropriate treatment program  
23 available to the offender ~~and whether or not there is a recommended~~  
24 ~~treatment plan;~~ and

1        5. Any information relevant to determining eligibility;  
2 provided, however, an offender shall not be denied admittance to any  
3 drug court program based upon an inability to pay court costs or  
4 other costs or fees.

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

8        1. The required ~~treatment plan~~ and plea agreement ~~have~~ has not  
9 been completed;

10       2. The program funding or availability of treatment has been  
11 exhausted;

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

13       4. The offender is assessed as low risk to reoffend as  
14 determined by a validated criminogenic risk assessment approved by  
15 the Oklahoma Department of Mental Health and Substance Abuse  
16 Services;

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

20       ~~5.~~ 6. The offender is inappropriate for admission to the  
21 program, in the discretion of the judge.

22       C. At the final eligibility hearing, if evidence is presented  
23 that was not discovered by the drug court investigation, the  
24 district attorney or the defense attorney may make an objection and

1 may ask the court to withdraw the plea agreement previously  
2 negotiated. The court shall determine whether to proceed and  
3 overrule the objection, to sustain the objection and transfer the  
4 case for traditional criminal prosecution, or to require further  
5 negotiations of the plea or punishment provisions. The decision of  
6 the judge for or against eligibility and admission shall be final.

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

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

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

20 3. ~~A written treatment plan which is subject to modification at~~  
21 ~~any time during the program; and~~

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



1 E. If admission into the drug court program is denied, the  
2 criminal case shall either be considered for other diversionary  
3 programs or be returned to the traditional criminal docket and shall  
4 proceed as provided for any other criminal case.

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

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

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

5 H. The drug court judge ~~shall~~ may order the offender to pay  
6 court costs, treatment costs, drug testing costs, a program user fee  
7 not 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; provided, however, once the offender has successfully  
6 completed the drug court program, the drug court judge shall have  
7 the discretion to expressly waive all or part of the costs and fees  
8 provided for in this subsection if, in the opinion of the drug court  
9 judge, continued payment of the costs and fees by the offender would  
10 create a financial hardship for the offender. Offenders who have  
11 not fully paid all costs and fees pursuant to court order but who  
12 have otherwise successfully completed the drug court program shall  
13 ~~not be counted as an active~~ be considered graduated from the drug  
14 ~~court participant for purposes of drug court contracts or program~~  
15 ~~participant numbers.~~ All fines, fees and costs shall be converted  
16 into a civil action. The drug court team may withhold all, or a  
17 portion of, benefits of the offender identified in the plea  
18 agreement until all restitution is paid in full.

19 I. Notwithstanding any other provision of law, if the driving  
20 privileges of the offender have been suspended, revoked, cancelled  
21 or denied by the Department of Public Safety and if the drug court  
22 judge determines that no other means of transportation for the  
23 offender is available, the drug court judge may enter a written  
24 order requiring the Department of Public Safety to stay any and all

1 such actions against the Class D driving privileges of the offender;  
2 provided, the stay shall not be construed to grant driving  
3 privileges to an offender who has not been issued a driver license  
4 by the Department or whose Oklahoma driver license has expired, in  
5 which case the offender shall be required to apply for and be found  
6 eligible for a driver license, pass all examinations, if applicable,  
7 and pay all statutory driver license issuance or renewal fees. The  
8 offender shall provide proof of insurance to the drug court judge  
9 prior to the judge ordering a stay of any driver license suspension,  
10 revocation, cancellation, or denial. When a judge of a drug court  
11 enters a stay against an order by the Department of Public Safety  
12 suspending or revoking the driving privileges of an offender, the  
13 time period set in the order by the Department for the suspension or  
14 revocation shall continue to run during the stay. When an offender  
15 has successfully completed the drug court program, the drug court  
16 judge shall maintain jurisdiction over the offender's driving  
17 privileges for one (1) year after the date on which the offender  
18 graduates from the drug court program.

19 SECTION 5. AMENDATORY 22 O.S. 2011, Section 471.7, is  
20 amended to read as follows:

21 Section 471.7 A. The designated drug court judge shall make  
22 all judicial decisions concerning any case assigned to the drug  
23 court docket or program. The judge shall require progress reports  
24 and a periodic review of each offender during his or her period of

1 participation in the drug court program ~~or for purposes of~~  
2 ~~collecting costs and fees after completion of the treatment portion~~  
3 ~~of the program.~~ Reports from the treatment providers and the  
4 supervising staff shall be presented to the drug court judge as  
5 specified by the ~~treatment~~ case plan or as ordered by the court.

6 B. Upon the written or oral motion of the treatment provider,  
7 the district attorney, the defense attorney, the defendant, or the  
8 supervising staff, the drug court judge shall set a date for a  
9 hearing to review the offender, the treatment plan, and the  
10 provisions of the performance contract. Notice shall be given to  
11 the offender and the other parties participating in the drug court  
12 case three (3) days before the hearing may be held.

13 C. The judge ~~may~~ shall establish a regular schedule for  
14 progress hearings for any offender in the drug court program. The  
15 district attorney shall not be required to attend regular progress  
16 hearings, but shall be required to be present upon the motion of any  
17 party to a drug court case.

18 D. The treatment provider, the supervising staff, the district  
19 attorney, and the defense attorney shall be allowed access to all  
20 information in the offender's drug court case file and all  
21 information presented to the judge at any periodic review or  
22 progress hearing.

23 E. The drug court judge shall recognize relapses and restarts  
24 in the program which are considered to be part of the rehabilitation

1 and recovery process. The judge shall accomplish monitoring and  
2 offender accountability by ordering progressively increasing  
3 sanctions or providing incentives, rather than removing the offender  
4 from the program when relapse occurs, except when the offender's  
5 conduct requires revocation from the program. Any revocation from  
6 the drug court program shall require notice to the offender and  
7 other participating parties in the case and a revocation hearing.  
8 At the revocation hearing, if the offender is found to have violated  
9 the conditions of the plea agreement or performance contract and  
10 disciplinary sanctions have been insufficient to gain compliance,  
11 the offender shall be revoked from the program and sentenced for the  
12 offense as provided in the plea agreement.

13 F. Upon application of any participating party to a drug court  
14 case, the judge may modify a ~~treatment~~ case plan at any hearing when  
15 it is determined that the ~~treatment~~ program is not benefiting the  
16 offender. The primary objective of the judge in monitoring the  
17 progress of the offender and the ~~treatment~~ case plan shall be to  
18 keep the offender in treatment for a sufficient time to change  
19 behaviors and attitudes. Modification of the ~~treatment~~ case plan  
20 requires a consultation with the treatment provider, supervising  
21 staff, district attorney, and the defense attorney ~~in open court~~.

22 G. The judge shall be prohibited from amending the written plea  
23 agreement after an offender has been admitted to the drug court  
24 program. Nothing in this provision shall be construed to limit the

1 authority of the judge to remove an offender from the program and  
2 impose the required punishment stated in the plea agreement after  
3 application, notice, and hearing."  
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5 56-1-7295 GRS 03/08/17  
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