

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB377

			Of the printed Bill
Page	<u>1</u>	Section <u>1</u>	Lines <u>14</u>
			Of the Engrossed Bill

By inserting a new "Section 1." to read as follows:

(see attached)

and by renumbering the subsequent sections of the bill;

Page 21, Section 1, Line 13: By inserting after the word "recommend" the following language: "to the drug court team that";

Page 21, Section 1, Line 13: By deleting after the word "offender" the words "to be" and inserting in lieu thereof, the word "is";

Page 21, Section 1, Line 14: By inserting after the punctuation mark "." the following language: "At the initial hearing for consideration of an offender for a misdemeanor drug court program, the district attorney shall determine whether or not the offender has approval to be considered for the program, whether the offender has been admitted to a drug court program within the preceding five (5) years and if any statutory preclusion, other prohibition, or program limitation exists and is applicable to considering the offender for the program. The district attorney may object to the consideration of an offender for the misdemeanor drug court program at the initial hearing. Upon an objection by the district attorney, the court shall deny consideration of the offender for participation in the misdemeanor drug court program and the criminal case shall proceed in the traditional manner.";

Page 21, Section 1, Line 14: By inserting after the word "The" the following language: "misdemeanor drug court";

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Justin Humphrey

Adopted: _____

Reading Clerk

Page 21, Section 1, Line 18: By deleting the words "global position" and inserting in lieu thereof, the word "electronic";

Page 21, Section 1, Line 18: By deleting the initials "(GPS)";

Page 21, Section 1, Line 21: By deleting the word "or";

Page 21, Section 1, Line 24: By inserting after the word "mobility" and before the punctuation mark "." the following language:

", or

e. participation in a county work release program as provided in Section 533 of Title 19 of the Oklahoma Statutes";

Page 22, Section 1, Line 1: By deleting the word "court" and inserting in lieu thereof, the following language: "drug court team";

Page 23, Section 1, Line 8: By deleting the word "may" and inserting in lieu thereof, the word "shall";

Page 23, Section 1, Line 8: By deleting the word "county" and inserting in lieu thereof, the word "sheriff";

Page 23, Section 1, Lines 8-9: By deleting all language beginning with the word "in" on Line 8 through the word "day" on Line 9 and inserting in lieu thereof, the following language: "designee the actual per-day monitoring fee"; and

Page 23, Section 1, Line 12½: By inserting a new paragraph to read as follows: "When the court sanctions an offender to confinement in the county jail or supervision by electronic monitoring, the offender shall continue to receive treatment and counseling from treatment providers certified by the Department of Mental Health and Substance Abuse Services as required under the provisions of the Oklahoma Drug Court Act."

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. Eligible offenses may further be restricted by the rules
17 of the specific drug court program. Nothing in this act shall be
18 construed to require a drug court to consider every offender with a
19 treatable condition or addiction, regardless of the fact that the
20 controlling offense is eligible for consideration in the program.
21 Traditional prosecution shall be required where an offender is
22 determined not appropriate for the drug court program.

23 D. Drug court programs shall require a separate judicial
24 processing system differing in practice and design from the

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

20 E. When a drug court program is established, the arresting
21 officer shall file the criminal case record for potentially eligible
22 offenders with the district attorney within four (4) days of the
23 arrest. The district attorney shall file an information in the case
24 within twenty-four (24) hours of receipt of the criminal case record

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

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

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

24 1. Strong linkage between participating agencies;

- 1 2. Access by all participating parties of a case to information
- 2 on the progress of the offender;
- 3 3. Vigilant supervision and monitoring procedures;
- 4 4. Random substance abuse testing;
- 5 5. Provisions for noncompliance, modification of the treatment
- 6 plan, and revocation proceedings;
- 7 6. Availability of residential treatment facilities and
- 8 outpatient services;
- 9 7. Payment of court costs, treatment costs, supervision fees,
- 10 and program user fees by the offender;
- 11 8. Methods for measuring application of disciplinary sanctions,
- 12 including provisions for:
 - 13 a. increased supervision,
 - 14 b. urinalysis testing,
 - 15 c. intensive treatment,
 - 16 d. short-term confinement not to exceed five (5) days,
 - 17 e. recycling the offender into the program after a
 - 18 disciplinary action for a minimum violation of the
 - 19 treatment plan,
 - 20 f. reinstating the offender into the program after a
 - 21 disciplinary action for a major violation of the
 - 22 treatment plan, and
 - 23 g. revocation from the program; and
 - 24

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

3 H. All drug court programs shall be required to keep reliable
4 data on recidivism, relapse, restarts, sanctions imposed, and
5 incentives given.

6 I. ~~Nothing~~ Subject to the availability of funds, nothing in
7 this section shall prohibit any county from establishing a drug
8 court for misdemeanor offenses. Such misdemeanor drug courts shall
9 follow the rules and regulations of felony drug courts except that
10 the penalty for revocation shall not exceed one (1) year in the
11 county jail or the maximum penalty for the misdemeanor allowed by
12 statute, whichever is less. The Administrative Office of the Courts
13 shall promulgate rules, procedures and forms for misdemeanor drug
14 courts that are established to operate in conjunction with an
15 existing felony drug court program. The Department of Mental Health
16 and Substance Abuse Services shall provide technical assistance and
17 substance abuse assessments to the counties that establish
18 misdemeanor drug courts."

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