

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1325

By: Brecheen

6 AS INTRODUCED

7 An Act relating to drug courts; amending 22 O.S.
8 2011, Section 471.1, as amended by Section 1, Chapter
9 222, O.S.L. 2016 (22 O.S. Supp. 2017, Section 471.1),
10 which relates to authorization of drug court
11 programs; requiring certification and review of
12 certain treatment providers; updating statutory
13 references; and providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as
15 amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2017,
16 Section 471.1), is amended to read as follows:

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

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

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

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

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

1 in the course of their office or employment. The chief judge of the
2 judicial district, or if the district has more than one chief judge
3 than the presiding judge of the Administrative Judicial District,
4 shall designate one or more judges to administer the drug court
5 program. The assignment of any judge to a drug court program or the
6 designation of a drug court docket shall not mandate the assignment
7 of all substance abuse related cases to the drug court docket or the
8 program; however, nothing in ~~this act~~ the Oklahoma Drug Court Act
9 shall be construed to preclude the assignment of all criminal cases
10 relating to substance abuse or drug possession as provided by the
11 rules established for the specific drug court program.

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

1 case file by the court clerk, if the case is subsequently assigned
2 to the drug court program. The originating criminal case file shall
3 remain open to public inspection. The judge shall determine what
4 information or pleadings are to be retained in the drug court case
5 file, which shall be closed to public inspection.

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

18 G. Each drug court program shall ensure, but not be limited to:
19 1. Strong linkage between participating agencies;
20 2. Access by all participating parties of a case to information
21 on the progress of the offender;
22 3. Vigilant supervision and monitoring procedures;
23 4. Random substance abuse testing;
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1 5. Provisions for noncompliance, modification of the treatment
2 plan, and revocation proceedings;

3 6. Availability of residential treatment facilities and
4 outpatient services;

5 7. Payment of court costs, treatment costs, supervision fees,
6 and program user fees by the offender;

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

9 a. increased supervision,

10 b. urinalysis testing,

11 c. intensive treatment,

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

13 e. recycling the offender into the program after a
14 disciplinary action for a minimum violation of the
15 treatment plan,

16 f. reinstating the offender into the program after a
17 disciplinary action for a major violation of the
18 treatment plan, and

19 g. revocation from the program; and

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

22 H. All drug court programs shall be required to keep reliable
23 data on recidivism, relapse, restarts, sanctions imposed, and
24 incentives given.

1 I. Nothing in this section shall prohibit any county from
2 establishing a drug court for misdemeanor offenses. Such
3 misdemeanor drug courts shall follow the rules and regulations of
4 felony drug courts except that the penalty for revocation shall not
5 exceed one (1) year in the county jail or the maximum penalty for
6 the misdemeanor allowed by statute, whichever is less. The
7 Department of Mental Health and Substance Abuse Services shall
8 provide technical assistance to the counties that establish
9 misdemeanor drug courts.

10 SECTION 2. This act shall become effective November 1, 2018.

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