

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 623

By: Treat

AS INTRODUCED

An Act relating to drug and mental health court; amending 22 O.S. 2011, Sections 471.1, as amended by Section 1, Chapter 222, O.S.L. 2016, 471.2, as last amended by Section 2, Chapter 222, O.S.L. 2016, 471.3, 471.6, as last amended by Section 1, Chapter 393, O.S.L. 2016, 471.7 and 471.9, as amended by Section 2, Chapter 393, O.S.L. 2016 (22 O.S. Supp. 2016, Sections 471.1, 471.2, 471.6 and 471.9), which relate to the Oklahoma Drug Court Act; expanding parameters of drug court program objectives; directing drug court programs to collect specific data; modifying list of offender information to be reviewed by law enforcement; removing approval and objection requirement of district attorneys; prohibiting offenders deemed low risk from admission into drug court program; providing for the reassessment of offenders at revocation hearings; allowing introduction of alternative treatment plan in lieu of revocation; authorizing revocation under certain circumstances; providing sentencing options for certain offenders who successfully complete drug court program; amending 22 O.S. 2011, Section 472, as amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2016, Section 472), which relates to the Anna McBride Act; providing sentencing options for certain offenders who successfully complete mental health court program; and providing an effective date.

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

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~~ the Oklahoma Drug
5 Court Act, "drug court", "drug court program" or "program" means an
6 immediate and highly structured judicial intervention process for
7 substance abuse treatment of eligible offenders which expedites the
8 criminal case, and requires successful completion of the plea
9 agreement.

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

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

3 2. Access by all participating parties of a case to information
4 on the progress of the offender;

5 3. Vigilant supervision and monitoring procedures;

6 4. Targeting medium to high risk offenders for participation;

7 5. The use of evidence-based interventions proven to reduce
8 dependency on drugs or alcohol or both;

9 6. Random substance abuse testing;

10 ~~5.~~ 7. Provisions for noncompliance, modification of the
11 treatment plan, and revocation proceedings;

12 ~~6.~~ 8. Availability of residential treatment facilities and
13 outpatient services;

14 ~~7.~~ 9. Payment of court costs, treatment costs, supervision
15 fees, and program user fees by the offender;

16 ~~8.~~ 10. Methods for measuring application of disciplinary
17 sanctions, including provisions for:

18 a. increased supervision,

19 b. urinalysis testing,

20 c. intensive treatment,

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

22 e. recycling the offender into the program after a
23 disciplinary action for a minimum violation of the
24 treatment plan,

1 f. reinstating the offender into the program after a
2 disciplinary action for a major violation of the
3 treatment plan, and

4 g. revocation from the program; and

5 ~~9.~~ 11. Methods for measuring performance-based effectiveness of
6 each individual treatment provider's services.

7 H. All drug court programs shall be required to keep reliable
8 data ~~on recidivism, relapse, restarts, sanctions imposed, and~~
9 ~~incentives given~~ including:

10 1. Total number of participants;

11 2. Total number of successful participants;

12 3. Total number of unsuccessful participants and the reason why
13 each unsuccessful participant did not complete the program;

14 4. Total number of participants who were arrested for a new
15 criminal offense while in the drug court program;

16 5. Total number of participants who were convicted of a new
17 felony or misdemeanor offense while in the drug court program;

18 6. Total number of participants who committed at least one (1)
19 drug court violation while in the drug court program and the
20 resulting sanction;

21 7. Results of the initial risk and needs assessment or other
22 clinical assessment conducted on each participant; and

23 8. Any other data or information as required by the Department
24 of Mental Health and Substance Abuse Services.

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. AMENDATORY 22 O.S. 2011, Section 471.2, as
11 last amended by Section 2, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
12 2016, Section 471.2), is amended to read as follows:

13 Section 471.2. A. The initial opportunity for review of an
14 offender for a drug court program shall occur within four (4) days
15 after the arrest and detention or incarceration of the offender in
16 the city or county jail, or if an immediate bond release program is
17 available through the jail, the initial opportunity for review shall
18 occur in conjunction with the bond release program. When a drug
19 court is established, the following information shall be initially
20 reviewed by the sheriff or designee, if the offender is held in a
21 county jail, or by the chief of police or designee, if the offender
22 is held in a city jail:

23 1. The offender's arrest or charge does not involve a crime of
24 violence against any person, unless there is a specific treatment

1 program in the jurisdiction designed to address domestic violence
2 and the offense is related to domestic violence and substance abuse;

3 2. The offender has no prior felony conviction in this state or
4 another state for a violent offense within the last ten (10) years,
5 except as may be allowed in a domestic violence treatment program
6 authorized by the drug court program. It shall be sufficient for
7 this paragraph that a criminal history records name search was
8 conducted and indicated no apparent violent offense;

9 3. The offender's arrest or charge does not involve a violation
10 of the Trafficking In Illegal Drugs Act;

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

12 5. ~~The offender:~~

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

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

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

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

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

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

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

15 1. A full description of the drug court process and
16 investigation;

17 2. A general explanation of the roles and authority of the
18 supervising staff, the district attorney, the defense attorney, the
19 treatment provider, the offender, and the judge in the drug court
20 program;

21 3. A clear statement that the drug court judge may decide after
22 a hearing not to consider the offender for the drug court program
23 and in that event the offender will be prosecuted in the traditional
24 manner;

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

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

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

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

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

19 8. A clear statement that during participation in the drug
20 court program should the offender fail to comply with the terms of
21 the agreement, the offender may be sanctioned to serve a term of
22 confinement of six (6) months in an intermediate revocation facility
23 operated by the Department of Corrections. An offender shall not be
24

1 allowed to serve more than two separate terms of confinement in an
2 intermediate revocation facility;

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

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

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

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

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

- 18 a. if the offender is incarcerated, the offender must
19 sign and complete the eligibility form and return it
20 to the sheriff, if the offender is held in the county
21 jail; or to the chief of police, if the offender is
22 held in a city jail. The sheriff or chief of police,
23 upon receipt of the eligibility form, shall file the
24 form with the district attorney at the time of filing

1 the criminal case record or at any time during the
2 period of incarceration when the offender completes
3 the form after the criminal case record has been
4 filed, or

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

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

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

22 D. When an offender has filed a voluntary request to be
23 considered for a drug court program on the appropriate form, the
24 district attorney shall indicate his or her approval of the request

1 by filing the form with the drug court judge. Upon the filing of
2 the request form by the district attorney, an initial hearing shall
3 be set before the drug court judge. The hearing shall be not less
4 than three (3) work days nor more than five (5) work days after the
5 date of the filing of the request form. Notice of the hearing shall
6 be given to the drug court team, or in the event no drug court team
7 is designated, to the offender, the district attorney, and to the
8 public defender. The offender shall be required to notify any
9 private legal counsel of the date and time of the hearing.

10 SECTION 3. AMENDATORY 22 O.S. 2011, Section 471.3, is
11 amended to read as follows:

12 Section 471.3. A. At the initial hearing for consideration of
13 an offender for a drug court program, the district attorney shall
14 determine whether or not:

15 1. The offender has approval to be considered for the drug
16 court program;

17 2. The offender has been admitted to the program within the
18 preceding five (5) years; and

19 3. Any statutory preclusion, other prohibition, or program
20 limitation exists and is applicable to considering the offender for
21 the program.

22 The district attorney may object to the consideration of an
23 offender for the drug court program at the initial hearing.
24

1 B. If the offender voluntarily consents to be considered for
2 the drug court program, has signed and filed the required form
3 requesting consideration, ~~and no objection has been made by the~~
4 ~~district attorney,~~ the court shall refer the offender for a drug
5 court investigation as provided in Section 5 of this act, and set a
6 date for a hearing to determine final eligibility for admittance
7 into the program.

8 C. Upon any objection of the district attorney for
9 consideration of an offender for the program, the court shall deny
10 consideration of the ~~offender's~~ request for participation in the
11 drug court program. Upon denial for consideration in the drug court
12 program at the initial hearing, the criminal case shall proceed in
13 the traditional manner. An objection by the district attorney and
14 the subsequent denial of consideration of the offender for the
15 program shall not preclude any future consideration of the offender
16 for the drug court program with the approval of the district
17 attorney.

18 SECTION 4. AMENDATORY 22 O.S. 2011, Section 471.6, as
19 last amended by Section 1, Chapter 393, O.S.L. 2016 (22 O.S. Supp.
20 2016, Section 471.6), is amended to read as follows:

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

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

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

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

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

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

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

21 1. The required treatment plan and plea agreement have not been
22 completed;

23 2. The program funding or availability of treatment has been
24 exhausted;

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

2 4. The offender is assessed as low risk;

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

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

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

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

23 1. Waiver of the offender's rights to speedy trial;
24

1 2. A written plea agreement which sets forth the offense
2 charged, the penalty to be imposed for the offense in the event of a
3 breach of the agreement, and the ~~penalty to be imposed, if any,~~
4 possible outcomes in the event of a successful completion of the
5 treatment program; provided, however, incarceration shall be
6 prohibited when the offender completes the treatment program;

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

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

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

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

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

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

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

1 providers. The court clerk shall collect all other costs and fees
2 ordered. The remaining user fees shall be remitted to the State
3 Treasurer by the court clerk for deposit in the Department of Mental
4 Health and Substance Abuse Services' Drug Abuse Education and
5 Treatment Revolving Fund established pursuant to Section 2-503.2 of
6 Title 63 of the Oklahoma Statutes. Court orders for costs and fees
7 pursuant to this subsection shall not be limited for purposes of
8 collection to the maximum term of imprisonment for which the
9 offender could have been imprisoned for the offense, nor shall any
10 court order for costs and fees be limited by any term of probation,
11 parole, supervision, treatment, or extension thereof. Court orders
12 for costs and fees shall remain an obligation of the offender until
13 fully paid; provided, however, once the offender has successfully
14 completed the drug court program, the drug court judge shall have
15 the discretion to expressly waive all or part of the costs and fees
16 provided for in this subsection if, in the opinion of the drug court
17 judge, continued payment of the costs and fees by the offender would
18 create a financial hardship for the offender. Offenders who have
19 not fully paid all costs and fees pursuant to court order but who
20 have otherwise successfully completed the drug court program shall
21 not be counted as an active drug court participant for purposes of
22 drug court contracts or program participant numbers.

23 I. Notwithstanding any other provision of law, if the driving
24 privileges of the offender have been suspended, revoked, cancelled

1 or denied by the Department of Public Safety and if the drug court
2 judge determines that no other means of transportation for the
3 offender is available, the drug court judge may enter a written
4 order requiring the Department of Public Safety to stay any and all
5 such actions against the Class D driving privileges of the offender;
6 provided, the stay shall not be construed to grant driving
7 privileges to an offender who has not been issued a driver license
8 by the Department or whose Oklahoma driver license has expired, in
9 which case the offender shall be required to apply for and be found
10 eligible for a driver license, pass all examinations, if applicable,
11 and pay all statutory driver license issuance or renewal fees. The
12 offender shall provide proof of insurance to the drug court judge
13 prior to the judge ordering a stay of any driver license suspension,
14 revocation, cancellation, or denial. When a judge of a drug court
15 enters a stay against an order by the Department of Public Safety
16 suspending or revoking the driving privileges of an offender, the
17 time period set in the order by the Department for the suspension or
18 revocation shall continue to run during the stay. When an offender
19 has successfully completed the drug court program, the drug court
20 judge shall maintain jurisdiction over the offender's driving
21 privileges for one (1) year after the date on which the offender
22 graduates from the drug court program.

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

1 Section 471.7. A. The designated drug court judge shall make
2 all judicial decisions concerning any case assigned to the drug
3 court docket or program. The judge shall require progress reports
4 and a periodic review of each offender during his or her period of
5 participation in the drug court program or for purposes of
6 collecting costs and fees after completion of the treatment portion
7 of the program. Reports from the treatment providers and the
8 supervising staff shall be presented to the drug court judge as
9 specified by the treatment plan or as ordered by the court.

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

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

22 D. The treatment provider, the supervising staff, the district
23 attorney, and the defense attorney shall be allowed access to all
24 information in the offender's drug court case file and all

1 information presented to the judge at any periodic review or
2 progress hearing.

3 E. The drug court judge shall recognize relapses and restarts
4 in the program which are considered to be part of the rehabilitation
5 and recovery process. The judge shall accomplish monitoring and
6 offender accountability by ordering progressively increasing
7 sanctions or providing incentives, rather than removing the offender
8 from the program when relapse occurs, except when the offender's
9 conduct requires revocation from the program. Any revocation from
10 the drug court program shall require notice to the offender and
11 other participating parties in the case and a revocation hearing.
12 At the revocation hearing, if the offender is found to have violated
13 the conditions of the plea agreement or performance contract and
14 disciplinary sanctions have been insufficient to gain compliance,
15 the offender shall be ~~revoked~~ reassessed for eligibility for an
16 appropriate program other than prison. The reassessment of the
17 offender includes a development of a treatment plan. The treatment
18 plan shall be introduced to the judge at the revocation hearing.
19 The judge shall consider the treatment plan in lieu of revocation.
20 If the judge finds that the participation of the offender in the
21 treatment plan is counter to public safety, the judge may revoke the
22 offender from the program and ~~sentenced~~ sentence the offender for
23 the offense as provided in the plea agreement.

1 F. Upon application of any participating party to a drug court
2 case, the judge may modify a treatment plan at any hearing when it
3 is determined that the treatment is not benefiting the offender.
4 The primary objective of the judge in monitoring the progress of the
5 offender and the treatment plan shall be to keep the offender in
6 treatment for a sufficient time to change behaviors and attitudes.
7 Modification of the treatment plan requires a consultation with the
8 treatment provider, supervising staff, district attorney, and the
9 defense attorney in open court.

10 G. The judge shall be prohibited from amending the written plea
11 agreement after an offender has been admitted to the drug court
12 program. Nothing in this provision shall be construed to limit the
13 authority of the judge to remove an offender from the program and
14 impose the required punishment stated in the plea agreement after
15 application, notice, and hearing.

16 SECTION 6. AMENDATORY 22 O.S. 2011, Section 471.9, as
17 amended by Section 2, Chapter 393, O.S.L. 2016 (22 O.S. Supp. 2016,
18 Section 471.9), is amended to read as follows:

19 Section 471.9. A. When an offender has successfully completed
20 the drug court program, ~~the~~ the:

21 1. The criminal case against the offender shall be ~~be~~

22 ~~1. Dismissed~~ dismissed if the offense was a first felony
23 offense; or
24

1 2. If the offender has a prior felony conviction, ~~the~~
2 ~~disposition shall be as specified in the written plea agreement~~ the
3 court shall:

4 a. defer judgment pursuant to the provisions of Section
5 991c of this title without regard to limitations on
6 deferred sentences,

7 b. suspend the execution of the sentence pursuant to
8 Section 991a of this title without regard to
9 limitations on suspended sentences,

10 c. sentence the offender to community sentencing, or

11 d. dismiss the criminal charges and proceedings.

12 B. The final disposition order for a drug court case shall be
13 filed with the judge assigned to the case, and shall indicate the
14 sentence specified in the written plea agreement. A copy of the
15 final disposition order for the drug court case shall also be filed
16 in the original criminal case file under the control of the court
17 clerk which is open to the public for inspection. Original criminal
18 case files which are under the control of the court clerk and which
19 are subsequently assigned to the drug court program shall be marked
20 with a pending notation until a final disposition order is entered
21 in the drug court case. After an offender completes the program,
22 the drug court case file shall be sealed by the judge and may be
23 destroyed after ten (10) years. The district attorney shall have
24 access to sealed drug court case files without a court order.

1 C. A record pertaining to an offense resulting in a successful
2 completion of a drug court program shall not, without the offender's
3 consent in writing, be used in any way which could result in the
4 denial of any employee benefit.

5 D. Successful completion of a drug court program shall not
6 prohibit any administrative agency from taking disciplinary action
7 against any licensee or from denying a license or privilege as may
8 be required by law.

9 E. When the offender has successfully completed the drug court
10 program, the drug court judge shall have the discretion to expressly
11 waive all or part of the court costs and fees, driver license
12 reinstatement fees, if applicable, and fines associated with the
13 criminal case if, in the opinion of the drug court judge, continued
14 payment of the court costs, fees and fines by the offender would
15 create a financial hardship for the offender, including specifically
16 the discretion to waive any requirement that fines and costs be
17 satisfied by a person prior to that person being eligible for a
18 provisional driver license pursuant to Section 6-212 of Title 47 of
19 the Oklahoma Statutes.

20 SECTION 7. AMENDATORY 22 O.S. 2011, Section 472, as
21 amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2016,
22 Section 472), is amended to read as follows:

23 Section 472. A. This section shall be known and may be cited
24 as the "Anna McBride Act".

1 B. Any district or municipal court of this state may establish
2 a mental health court program pursuant to the provisions of this
3 section, subject to the availability of funds.

4 C. The court may request assistance from the Department of
5 Mental Health and Substance Abuse Services which shall be the
6 primary agency to assist in developing and implementing a mental
7 health court program.

8 D. For purposes of this section, "mental health court" means a
9 judicial process that utilizes specially trained court personnel to
10 expedite the case and explore alternatives to incarceration for
11 offenders charged with criminal offenses other than a crime listed
12 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
13 who have a mental illness or a developmental disability, or a co-
14 occurring mental illness and substance abuse disorder. The district
15 attorney's office may use discretion in the prosecution of those
16 offenders specified in this subsection subject to the restrictions
17 provided in subsection E of this section.

18 E. The court shall have the authority to exclude from mental
19 health court any offender arrested or charged with any violent
20 offense or any offender who has a prior felony conviction in this
21 state or another state for a violent offense. Eligibility and entry
22 by an offender into the mental health court program is dependent
23 upon prior approval of the district attorney. Eligible offenses may
24 further be restricted by the rules of the specific mental health

1 court program. The court also shall have the authority to exclude
2 persons from mental health court who have a propensity for violence.

3 F. The mental health court judge shall recognize relapses and
4 restarts in the program which shall be considered as part of the
5 rehabilitation and recovery process. The court shall accomplish
6 monitoring and offender accountability by ordering progressively
7 increasing sanctions or providing incentives, rather than removing
8 the offender from the program when a violation occurs, except when
9 the conduct of the offender requires revocation from the program.
10 Any revocation from the mental health court program shall require
11 notice to the offender and other participating parties in the case
12 and a revocation hearing. At the revocation hearing, if the
13 offender is found to have violated the conditions of the plea
14 agreement or performance contract and disciplinary sanctions have
15 been insufficient to gain compliance, the offender shall be revoked
16 from the program and sentenced for the offense as provided in the
17 plea agreement.

18 G. When an offender has successfully completed the mental
19 health court program, the criminal case against the offender shall
20 be:

- 21 1. Dismissed if the offense was a first felony offense; or
22 2. If the offender has a prior felony conviction, the court

23 shall:
24

1 a. defer judgment pursuant to the provisions of Section
2 991c of this title without regard to limitations on
3 deferred sentences,

4 b. suspend the execution of sentence pursuant to Section
5 991a of this title without regard to limitations on
6 suspended sentences,

7 c. sentence the offender to community sentencing, or

8 d. dismiss the criminal charges and proceedings.

9 SECTION 8. This act shall become effective November 1, 2017.

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