

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 249

By: Thompson

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5
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. 2018, Section 471.1),
10 which relates to authorization of drug court
11 programs; establishing drug court funds; stating
12 purpose of certain fund; making funds nonfiscal;
13 stating source of revenue; establishing procedures
14 for expenditure of certain funds; updating statutory
15 references; providing an effective date; and
16 declaring an emergency.

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

18 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as
19 amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2018,
20 Section 471.1), is amended to read as follows:

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

1 B. Each district court of this state is authorized to establish
2 a drug court program pursuant to the provisions of ~~this act~~ the
3 Oklahoma Drug Court Act, subject to availability of funds. Juvenile
4 drug courts may be established based upon the provisions of ~~this act~~
5 the Oklahoma Drug Court Act; provided, however, juveniles shall not
6 be held, processed, or treated in any manner which violates any
7 provision of Title 10A of the Oklahoma Statutes.

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

17 D. Drug court programs shall require a separate judicial
18 processing system differing in practice and design from the
19 traditional adversarial criminal prosecution and trial systems.
20 Whenever possible, a drug court team shall be designated consisting
21 of a judge to administer the program, a district attorney, a defense
22 attorney, and other persons designated by the drug court team who
23 shall have appropriate understanding of the goals of the program and
24 of the appropriate treatment methods for the various conditions.

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

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

1 attorney. Any criminal case which has been filed and processed in
2 the traditional manner shall be cross-referenced to a drug court
3 case file by the court clerk, if the case is subsequently assigned
4 to the drug court program. The originating criminal case file shall
5 remain open to public inspection. The judge shall determine what
6 information or pleadings are to be retained in the drug court case
7 file, which shall be closed to public inspection.

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

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

- 18 1. Strong linkage between participating agencies;
- 19 2. Access by all participating parties of a case to information
20 on the progress of the offender;
- 21 3. Vigilant supervision and monitoring procedures;
- 22 4. Random substance abuse testing;
- 23 5. Provisions for noncompliance, modification of the treatment
24 plan, and revocation proceedings;

1 6. Availability of residential treatment facilities and
2 outpatient services;

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

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

7 a. increased supervision,

8 b. urinalysis testing,

9 c. intensive treatment,

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

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

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

17 g. revocation from the program; and

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

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

23 I. All funds received by a drug court, in its capacity as a
24 drug court, shall be credited to and accounted for in the county

1 treasurer's office in a special cash fund to be known as the "Drug
2 Court Fund". Each drug court fund shall be a continuing fund, not
3 subject to fiscal year limitations, and shall be dedicated to the
4 operation of the drug court as authorized by law. The expenditures
5 of any funds received by a drug court program and deposited with the
6 county treasurer shall be made only upon sworn itemized claims
7 approved by the judge of the drug court or other county employee
8 designated by the drug court judge or drug court team, filed with
9 the county treasurer and paid by cash voucher drawn by the county
10 treasurer from the funds.

11 J. Nothing in this section shall prohibit any county from
12 establishing a drug court for misdemeanor offenses. Such
13 misdemeanor drug courts shall follow the rules and regulations of
14 felony drug courts except that the penalty for revocation shall not
15 exceed one (1) year in the county jail or the maximum penalty for
16 the misdemeanor allowed by statute, whichever is less. The
17 Department of Mental Health and Substance Abuse Services shall
18 provide technical assistance to the counties that establish
19 misdemeanor drug courts.

20 SECTION 2. This act shall become effective July 1, 2019.

21 SECTION 3. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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