

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE  
5 BILL NO. 249

By: Thompson of the Senate

6 and

7 McEntire of the House

8  
9 An Act relating to drug courts; amending 22 O.S.  
10 2011, Section 471.1, as amended by Section 1, Chapter  
11 222, O.S.L. 2016 (22 O.S. Supp. 2018, Section 471.1),  
12 which relates to authorization of drug court  
13 programs; establishing drug court funds; stating  
14 purpose of certain fund; making funds nonfiscal;  
15 stating source of revenue; establishing procedures  
16 for expenditure of certain funds; updating statutory  
17 references; providing an effective date; and  
18 declaring an emergency.

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

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

23 Section 471.1. A. For purposes of ~~this act~~ the Oklahoma Drug  
24 Court Act, "drug court", "drug court program" or "program" means an  
immediate and highly structured judicial intervention process for  
substance abuse treatment of eligible offenders which expedites the

1 criminal case, and requires successful completion of the plea  
2 agreement.

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

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

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

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

16 E. When a drug court program is established, the arresting  
17 officer shall file the criminal case record for potentially eligible  
18 offenders with the district attorney within four (4) days of the  
19 arrest. The district attorney shall file an information in the case  
20 within twenty-four (24) hours of receipt of the criminal case record  
21 when the offender appears eligible for consideration for the  
22 program. The information may be amended as necessary when an  
23 offender is denied admittance into the drug court program or for  
24 other purposes as provided in Section 304 of this title. Any person

1 arrested upon a warrant for his or her arrest shall not be eligible  
2 for the drug court program without the approval of the district  
3 attorney. Any criminal case which has been filed and processed in  
4 the traditional manner shall be cross-referenced to a drug court  
5 case file by the court clerk, if the case is subsequently assigned  
6 to the drug court program. The originating criminal case file shall  
7 remain open to public inspection. The judge shall determine what  
8 information or pleadings are to be retained in the drug court case  
9 file, which shall be closed to public inspection.

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

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

- 20 1. Strong linkage between participating agencies;
- 21 2. Access by all participating parties of a case to information  
22 on the progress of the offender;
- 23 3. Vigilant supervision and monitoring procedures;
- 24 4. Random substance abuse testing;

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

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

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

23 SECTION 3. It being immediately necessary for the preservation  
24 of the public peace, health or safety, an emergency is hereby

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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4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
5 03/28/2019 - DO PASS.

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