

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2353

5 By: Representatives Pritchard, Borhauer
6
7

For An Act To Be Entitled

8 THE ARKANSAS DRUG COURT ACT.
9

Subtitle

10 THE ARKANSAS DRUG COURT ACT.
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14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
16

17 SECTION 1. This act shall be known as the "Arkansas Drug Court Act".
18

19 SECTION 2. Definitions.

20 For purposes of this act;

21 (1) "Drug court program" means an highly structured judicial
22 intervention process for substance abuse treatment of eligible offenders
23 which requires successful completion of the Drug Court Program treatment in
24 lieu of incarceration; and

25 (2) "Drug court team" means a circuit judge, a prosecuting attorney, a
26 defense attorney, and an addiction counselor.
27

28 SECTION 3. Drug court programs authorized.

29 (a) Each judicial district of this state is authorized to establish a
30 drug court program under this act, which may be preadjudication or
31 postadjudication subject to availability of funds.

32 (b)(1) Drug court programs shall not be available to any defendant
33 having a pending violent criminal charge against them.

34 (2) Eligible offenses may further be restricted by the rules of
35 the specific drug court program.

36 (3) Nothing in this act shall require a drug court to consider



1 or accept every offender with a treatable condition or addiction, regardless
 2 of the fact that the controlling offense is eligible for consideration in the
 3 program.

4 (4) Any offender who is determined not appropriate for the drug
 5 court program shall be prosecuted as provided by law.

6 (c)(1) Drug court programs shall require a separate judicial
 7 processing system differing in practice and design from the traditional
 8 adversarial criminal prosecution and trial systems.

9 (2) A drug court team shall be designated consisting of a circuit
 10 judge to administer the program, a prosecuting attorney, a defense attorney,
 11 and an addiction counselor who shall have appropriate understanding of the
 12 goals of the program and of the appropriate treatment methods for the various
 13 conditions and any other individual(s) determined necessary by the Drug Court
 14 Judge.

15 (3) The assignment of any person to the drug court team shall
 16 not preclude the assigned person from performing other duties required in the
 17 course of his or her office or employment.

18 (4) The administrative judge of the judicial district or an
 19 agreement of a majority of the circuit judges in the judicial district, shall
 20 designate one or more judges to administer the drug court program.

21 (d) The originating criminal case file shall remain open to public
 22 inspection.

23 (e)(1) The drug court judge may request assistance from the Department
 24 of Health and the Department of Human Services which shall be the primary
 25 agencies to assist in developing and implementing a drug court program or
 26 from any state or local agency in obtaining the necessary treatment services
 27 which will assure maximum opportunity for successful treatment, education,
 28 and rehabilitation for offenders admitted to the program.

29 (2) All participating state and local agencies are directed to
 30 coordinate with each other and cooperate in assisting the circuit court in
 31 establishing a drug court program.

32 (f) Each drug court program shall ensure, but not be limited to:

33 (1) Strong linkage between participating agencies;

34 (2) Access by all participating parties of a case to information
 35 on the offender's progress;

36 (3) Vigilant supervision and monitoring procedures;

1 (4) Random substance abuse testing;

2 (5) Provisions for noncompliance, modification of the treatment
 3 plan, and revocation or termination;

4 (6) Availability of residential treatment facilities and
 5 outpatient services;

6 (7) Payment of court costs, treatment costs, supervision fees,
 7 and program user fees by the offender, as ordered by the Drug Court Judge;

8 (8) Methods for measuring application of disciplinary sanctions,
 9 including provisions for:

10 (A) Increased supervision;

11 (B) Drug testing, including urinalysis testing;

12 (C) Intensive treatment, including in-patient residential
 13 treatment;

14 (D) Short-term confinement at the discretion of the drug
 15 court judge;

16 (E) Recycling the offender into the program after a
 17 disciplinary action for a minimum violation of the treatment plan;

18 (F) Reinstating the offender into the program after a
 19 disciplinary action for a major violation of the treatment plan; and

20 (G) Revocation or termination from the program

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

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

25
 26 SECTION 4. Eligibility and request for drug court program.

27 (a)(1) The initial opportunity for review of an offender for a drug
 28 court program shall occur within forty-five (45) days after the arrest,
 29 detention, or incarceration of the offender.

30 (2) When a drug court is established, the following information
 31 shall be initially reviewed by the prosecuting attorney.

32 (A)(i) The offender's arrest or charge does not involve a
 33 crime of violence against any person;

34 (ii) It shall be sufficient that a criminal history
 35 records name search was conducted and indicated no apparent violent offense.

36 (B) The offender has committed a felony offense; and

1 (C) The offender:

2 (i) Admits to having a substance abuse addiction;

3 (ii) Appears to have a substance abuse addiction;

4 (iii) Is known to have a substance abuse addiction;

5 or

6 (iv) The arrest or charge is based upon an offense
7 eligible for the drug court program.

8 (3)(A) If it appears to the prosecuting attorney that the
9 offender may be potentially eligible for the drug court program, the offender
10 shall be given an eligibility form which may be voluntarily completed by the
11 offender, and the prosecuting attorney shall file the criminal case record
12 within the time prescribed.

13 (B) The offender shall not automatically be considered for
14 the program based upon this review.

15 (C) The offender must request consideration for the drug
16 court program and shall have approval from the prosecuting attorney before
17 being considered for the drug court program.

18 (D) The eligibility form shall describe the drug court
19 program for which the offender may be eligible, including, but not limited
20 to:

21 (i) A full description of the drug court process and
22 investigation;

23 (ii) A general explanation of the roles and
24 authority of the supervising staff, the prosecuting attorney, the defense
25 attorney, the treatment provider, the offender, and the circuit judge in the
26 drug court program;

27 (iii) A clear statement that the offender is
28 required, before consideration in the program, to enter a guilty plea as part
29 of a written plea agreement in a postadjudication program, or is willing to
30 stipulate the facts of the arrest and other materials in police reports and
31 other documents provided by the prosecutor and attached to the transfer order
32 in the event the defendant is terminated from a preadjudication program;

33 (iv) A clear statement that the plea agreement will
34 specify the offense to which the guilty plea will be entered and will state
35 any penalty to be imposed for the offense, both in the event of a successful
36 completion of the drug court program, and in the event of a failure to

1 complete the program in a post-adjudication program or is willing to allow
2 the prosecutor to introduce the stipulated facts into evidence at a criminal
3 trial without any objection at any trial of a defendant terminated from a
4 preadjudication program;

5 (v) A clear statement that the offender must
6 voluntarily agree to:

7 (a) Waive the right to a speedy trial;

8 (b) Waive the right to a preliminary hearing;

9 (c) The terms and conditions of a treatment
10 plan; and

11 (d) Sign a performance contract with the
12 court;

13 (vi) A clear statement that the offender, if
14 accepted into the drug court program, shall not be incarcerated for the
15 offense in a state correctional institution or jail upon successful
16 completion of the program, but may have the charges dismissed;

17 (vii) A clear statement that during participation in
18 the drug court program should the offender:

19 (a) Fail to comply with the terms of the
20 agreements;

21 (b) Plead guilty, nolo contendere, or be found
22 guilty of a misdemeanor offense which reflects a propensity for violence;

23 (c) Have charges filed for a violent felony
24 offense, or

25 (d) Plead guilty, nolo contendere, or be found
26 guilty of any felony offense the offender may be required, after a court
27 hearing, to be removed from the program and sentenced without trial under the
28 provisions of the negotiated plea agreement; and

29 (ix) An explanation of the criminal record retention
30 and disposition resulting from participation in the drug court program
31 following successful completion of the program.

32 (b) The offender may request consideration for the drug court
33 program as follows:

34 (A)(i) If the offender is incarcerated, the offender must
35 sign and complete the eligibility form and return it to the sheriff, if the
36 offender is held in the county jail, or to the chief of police, if the

1 offender is held in a city jail; and

2 (ii) The sheriff or chief of police, upon receipt of
 3 the eligibility form, shall file the form with the prosecuting attorney at
 4 the time of filing the criminal case record or at any time during the period
 5 of incarceration when the offender completes the form after the criminal case
 6 record has been filed; or

7 (B)(i) After release of the offender from incarceration,
 8 the offender must sign and complete the eligibility form and file it with the
 9 prosecuting attorney or the court, prior to or at the time of either initial
 10 appearance or arraignment; and

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

16 (C) Nothing contained in this subsection (b) shall
 17 prohibit the drug court from considering any offender deemed eligible for the
 18 program at any time prior to sentencing whose case has been prosecuted as
 19 provided by law, upon recommendation of the prosecuting attorney.

20 (c)(1) When an offender has filed a voluntary request to be considered
 21 for a drug court program on the appropriate form, the prosecuting attorney
 22 shall indicate his or her approval of the request by filing the form with the
 23 drug court judge.

24 (2) Upon the filing of the request form by the prosecuting
 25 attorney, an initial hearing shall be set before the drug court judge, at the
 26 drug court judge's discretion, unless waived by the prosecutor and the
 27 defendant.

28 (3) The hearing shall be held not less than three (3) working
 29 days nor more than five (5) working days after the date of the filing of the
 30 request form.

31 (4) Notice of the hearing shall be given to the drug court team,
 32 or in the event no drug court team is designated, to the offender, the
 33 prosecuting attorney, and to the public defender.

34 (5) The offender shall be required to notify any private legal
 35 counsel of the date and time of the hearing.

36

SECTION 5. Initial hearing.

(a) At the initial hearing for consideration of an offender for a drug court program, the prosecuting attorney shall determine whether or not:

(1) The offender has approval to be considered for the drug court program;

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

(3) Any other prohibitions, or program limitation exists and which are applicable to considering the offender for the program.

(b) The prosecuting attorney may object to the consideration of an offender for the drug court program at the initial hearing.

(c) If the offender voluntarily consents to be considered for the drug court program, has signed and filed the required form requesting consideration, and no objection has been made by the prosecuting attorney, the drug court judge shall refer the offender for a drug court investigation and set a date for a hearing to determine final eligibility for admittance into the program.

(d)(1) Upon any objection of the prosecuting attorney for consideration of an offender for the program, the drug court judge shall deny consideration of the offender's request for participation in the drug court program.

(2) Upon denial for consideration in the drug court program at the initial hearing, the criminal case shall proceed as provided by law.

(3) An objection by the prosecuting attorney and the subsequent denial of consideration of the offender for the program shall not preclude any future consideration of the offender for the drug court program with the approval of the prosecuting attorney.

SECTION 6. Drug court assessment.

(a) When directed by the presiding judge, the supervising staff for the drug court program shall make an investigation of the offender under consideration to determine whether or not the offender is a person who:

(1) Would benefit from the drug court program; and

(2) Is appropriate for the drug court program.

(b)(1) The drug court investigation shall be conducted through a thorough screening test and extensive personal interview with members of the

1 treatment team and the offender.

2 (2) The investigation shall determine the original
 3 treatment plan which the offender will be required to follow, if admitted to
 4 the program.

5 (3) Any subsequent assessments or evaluations by the
 6 treatment team provider, if the offender is admitted to the program, may be
 7 used to determine modifications needed to the original treatment plan.

8 (4) The investigation shall include, but not be limited to, the
 9 following information:

10 (A) The person's age and physical condition;

11 (B) Employment and military service records;

12 (C) Educational background and literacy level;

13 (D) Community and family relations;

14 (E) Prior and current drug and alcohol use;

15 (F) Mental health and medical treatment history, including
 16 substance abuse treatment history;

17 (G) Demonstrable motivation; and

18 (H) Other mitigating or aggravating factors.

19 (c)(1) The drug court investigation shall be conducted before the
 20 final determination of eligibility for the drug court program.

21 (2) When an offender is appropriate for admittance to the
 22 program, the supervising staff shall make a recommendation for the treatment
 23 program or programs that are available in the jurisdiction and which would
 24 benefit the offender and accept the offender.

25 (3) The investigation findings and recommendations for
 26 program placement shall be reported to the presiding judge, the prosecuting
 27 attorney, the offender, and the defense attorney prior to the next scheduled
 28 hearing.

29 (d)(1) The prosecuting attorney and the defense attorney for the
 30 offender may independently review the findings and recommendations of the
 31 drug court investigation report.

32 (2)(A) For an offender to remain eligible for consideration in
 33 the program, both the prosecuting attorney and the defense attorney must
 34 accept the recommended treatment plan, and shall negotiate the terms of the
 35 written plea agreement with all punishment provisions specified before the
 36 scheduled hearing date for determining final eligibility, in a

1 postadjudication drug court or agree to the introduction of stipulated facts
 2 without objection in a trial of a terminated defendant in a preadjudication
 3 drug court program.

4 (B) The punishment provisions of the written plea
 5 agreement shall emphasize reparation to the victim, community, and state.

6 (3) Upon failure of the prosecuting attorney and defense
 7 attorney to negotiate the written plea agreement, the criminal case shall be
 8 withdrawn from the drug court program and processed as provided by law.

9 (e) The hearing to determine final eligibility shall be set not less
 10 than three (3) working days nor more than seven (7) working days after the
 11 date of the initial hearing for consideration, unless extended by the drug
 12 court judge.

13
 14 SECTION 7. Admissibility of statements or evidence.

15 (a) Any statement, or any information procured from any statement made
 16 by the offender to any supervising staff, which is made during the course of
 17 any drug court investigation conducted by the supervising staff and any
 18 report of the supervising staff's findings and recommendations to the drug
 19 court judge, the prosecuting attorney, or the defense counsel shall not be
 20 admissible in the criminal case pending against the offender.

21 (b) Any statement, or any information procured from any statement with
 22 respect to the specific offense for which the offender was arrested or is
 23 charged, which is made to any supervising staff subsequent to the granting of
 24 admission of the offender to the drug court program, shall not be admissible
 25 in the pending criminal case nor shall such be grounds for the revocation of
 26 an offender from the program.

27 (c) In the event that an offender is denied admission to the drug
 28 court program or is subsequently removed from the program, any information
 29 gained from the drug court investigation, any statements or information
 30 divulged during the drug court investigation or any treatment session shall
 31 not be used in any portion of the criminal matter of the offender for the
 32 original criminal offense.

33 (d) The restrictions provided in this section shall not preclude the
 34 admissibility of statements or evidence obtained by the state from
 35 independent sources.

36 (e)(1) The offender, as consideration for entering the drug court

1 program, must consent to a full and complete photographic record of property
 2 which is to be used as evidence in the pending criminal case.

3 (2) The photographic record shall be competent evidence of the
 4 property and admissible in any criminal action or proceeding as the best
 5 evidence.

6 (3) After the photographic record is made, the property shall be
 7 returned as follows:

8 (A) Property, except that which is prohibited by law,
 9 shall be returned to its owner after proper verification of title;

10 (B) The return of the property to the owner shall be
 11 without prejudice to the state or to any person who may have a claim against
 12 the property; and

13 (C) When a return of the property is made to the owner,
 14 the owner shall sign, under penalty of perjury, a declaration of ownership,
 15 which shall be retained by the person in charge of the property at the police
 16 department or sheriff's office.

17
 18 SECTION 8. Final eligibility hearing – Acceptance into a treatment
 19 program – Duration of participation – Costs and fees.

20 (a) The presiding judge shall conduct a hearing as required to
 21 determine final eligibility by considering:

22 (1) Whether or not the offender voluntarily consents to the
 23 program requirements;

24 (2) Whether or not to accept the offender based upon the
 25 findings and recommendations of the drug court investigation;

26 (3) Whether or not there is a written plea agreement, and if so,
 27 whether the terms and conditions of the written negotiated plea between the
 28 prosecuting attorney, the defense attorney, and the offender are appropriate
 29 and consistent with the penalty provisions and conditions of other similar
 30 cases;

31 (4) Whether or not there is an appropriate treatment program
 32 available to the offender and whether or not there is a recommended treatment
 33 plan; and

34 (5)(A) Any other information relevant to determining
 35 eligibility;

36 (B) An offender shall not be denied admittance to any drug

1 court program based upon an inability to pay court costs or other costs or
 2 fees.

3 (b) At the hearing to determine final eligibility for the drug court
 4 program, the presiding judge shall not grant any admission of any offender to
 5 the program when:

6 (1) The required treatment plan and plea agreement have not been
 7 completed;

8 (2) The program funding or availability of treatment has been
 9 exhausted;

10 (3) The treatment program is unwilling to accept the offender;

11 (4) The offender was ineligible for consideration by the nature
 12 of a violent offense at the time of arrest, and the charge has been modified
 13 to meet the eligibility criteria of the program; or

14 (5) The offender is inappropriate for admission to the program,
 15 at the discretion of the presiding judge.

16 (c)(1) At the final eligibility hearing, if evidence is presented that
 17 was not discovered by the drug court investigation, the prosecuting attorney
 18 or the defense attorney may make an objection and may ask the presiding judge
 19 to withdraw the plea agreement if previously negotiated.

20 (2)(A) The drug court judge shall determine whether to:

21 (i) Overrule the objection and proceed;

22 (ii) Sustain the objection and transfer the case for
 23 criminal prosecution as provided by law; or

24 (iii) Require further negotiations of the plea or
 25 punishment provisions.

26 (B) The decision of the drug court judge for or against
 27 eligibility and admission shall be final.

28 (d)(1) When the drug court judge accepts the treatment plan with the
 29 written plea agreement or stipulated facts, the offender, upon entering the
 30 plea as agreed by the parties, shall be ordered and escorted immediately into
 31 the program.

32 (2) The offender must have voluntarily signed the necessary
 33 court documents before the offender may be admitted to treatment.

34 (3) The court documents shall include:

35 (A) Waiver of the offender's rights to speedy trial;

36 (B)(i) A written plea agreement which sets forth the

1 offense charged, the penalty to be imposed for the offense in the event of a
2 breach of the agreement, and the penalty to be imposed, if any, in the event
3 of a successful completion of the treatment program in the event of a
4 revocation in a postadjudication drg court or stipulated facts that may be
5 used in the event of a criminal trial of a terminated defendant in a
6 preadjudication drug court;

7 (ii) However, incarceration shall be prohibited when
8 the offender completes the treatment program;

9 (C) A written treatment plan which is subject to
10 modification at any time during the program; and

11 (D) A written performance contract requiring the offender
12 to enter the treatment program as directed by the presiding judge and
13 participate until completion, withdrawal, or removal by the presiding judge.

14 (4) If admission into the drug court program is denied, the
15 criminal case shall be returned to the regular criminal docket and shall
16 proceed as provided by law.

17 (e) At the time an offender is admitted to the drug court program, any
18 bail, or undertaking on behalf of the offender, shall at the discretion of
19 the drug court judge be exonerated.

20 (f)(1) The period of time during which an offender may participate in
21 the active treatment portion of the drug court program shall be not less than
22 six (6) months nor more than twenty-four (24) months and may include a period
23 of supervision not less than six (6) months nor more than one (1) year
24 following the treatment portion of the program.

25 (2) All participating treatment providers shall be certified by
26 the Department of Health or the Department of Human Services and any
27 substance abuse services shall be selected and evaluated for performance-
28 based effectiveness annually by the Department of Health or the Department of
29 Human Services.

30 (3) Treatment programs shall be designed to be completed within
31 twelve (12) months and shall have relapse prevention and evaluation
32 components.

33 (g)(1) The drug court judge shall order the offender to pay court
34 costs, treatment costs, drug testing costs, a program user fee not to exceed
35 twenty dollars (\$20.00) per month, and necessary supervision fees, unless the
36 offender is indigent.

1 (2)(A) The drug court judge shall establish a schedule
 2 for the payment of costs and fees.

3 (B) The cost for treatment, drug testing, and supervision
 4 shall be set by the treatment and supervision providers respectively and made
 5 part of the drug court judge's order for payment.

6 (3) User fees shall be set by the drug court judge within the
 7 maximum amount authorized by this subsection and payable directly to the
 8 court clerk for the benefit and administration of the drug court program.

9 (4) Treatment, drug testing, and supervision costs shall be paid
 10 to the respective providers.

11 (5) The court clerk shall collect all other costs and fees
 12 ordered.

13 (6)(A) The remaining user fees shall be remitted to the
 14 Treasurer of State by the court clerk for deposit in the MAG Drug Court Fund
 15 which is a special revenue fund created and established on the books of the
 16 Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State.

17 (B) The MAG Drug Court Fund shall consist of user fees and
 18 any other moneys provided by law.

19 (7) Court orders for costs and fees under this
 20 subsection shall not be limited for purposes of collection to the maximum
 21 term of imprisonment for which the offender could have been imprisoned for
 22 the offense, nor shall any court order for costs and fees be limited by any
 23 term of probation, parole, supervision, treatment, or extension thereof.

24 (8) Court orders for costs and fees shall remain an obligation
 25 of the offender with court monitoring until fully paid.

26
 27 SECTION 9. Monitoring of treatment progress.

28 (a)(1) The designated drug court judge shall make all judicial
 29 decisions concerning any case assigned to the drug court docket or program.

30 (2) The drug court judge shall require progress reports and a
 31 periodic review of each offender during his or her period of participation in
 32 the drug court program or for purposes of collecting costs and fees after
 33 completion of the treatment portion of the program.

34 (3) Reports from the treatment providers and the supervising
 35 staff shall be presented to the drug court judge as specified by the
 36 treatment plan or as ordered by the drug court judge.

1 (b)(1) Upon the written or oral motion of the treatment provider, the
 2 prosecuting attorney, the defense attorney, the defendant, or the supervising
 3 staff, the drug court judge shall set a date for a hearing to review the
 4 offender, the treatment plan, and the provisions of the performance contract.

5 (2) Notice shall be given to the offender and the other
 6 parties participating in the drug court case not less than two (2) days
 7 before the hearing may be held.

8 (c) The drug court judge may establish a regular schedule for progress
 9 hearings for any offender in the drug court program.

10 (d) The treatment provider, the supervising staff, the prosecuting
 11 attorney, and the defense attorney shall be allowed access to all information
 12 in the offender's drug court case file and all information presented to the
 13 drug court judge at any periodic review or progress hearing.

14 (e)(1) The drug court judge shall recognize relapses and restarts in
 15 the program which are considered to be part of the rehabilitation and
 16 recovery process.

17 (2) The drug court judge shall accomplish monitoring and
 18 offender accountability by ordering progressively increasing sanctions or
 19 providing incentives, rather than removing the offender from the program when
 20 relapse occurs, except when the offender's conduct requires revocation from
 21 the program.

22 (3)(A) Any revocation or termination from the drug court program
 23 shall require notice to the offender and other participating parties in the
 24 case at a revocation hearing.

25 (B) At the revocation, if the offender is found to have
 26 violated the conditions of the plea agreement and disciplinary sanctions have
 27 been insufficient to gain compliance, the offender shall be removed from the
 28 program and sentenced for the offense as provided in the plea agreement in a
 29 postadjudication drug court or in the event of a termination in a
 30 preadjudication drug court the defendant will stand trial as per normal
 31 procedure with the prosecutor having the option of introducing the previously
 32 stipulated facts without objection from the defendant.

33 (f)(1) Upon application of any participating party to a drug court
 34 case, the drug court judge may modify a treatment plan at any hearing when it
 35 is determined that the treatment is not benefiting the offender.

36 (2) The primary objective of the drug court judge in monitoring

1 the progress of the offender and the treatment plan, shall be to keep the
 2 offender in treatment for a sufficient time to change behaviors, attitudes,
 3 and life style.

4 (3) Modification of the treatment plan requires a consultation
 5 with the treatment provider, supervising staff, prosecuting attorney, and the
 6 defense attorney in open court.

7 (g)(1) The drug court judge shall be prohibited from amending
 8 the written plea agreement after an offender has been admitted to the drug
 9 court program in a postadjudication program.

10 (2) Nothing in this provision shall be construed to limit
 11 the authority of the drug court judge to remove an offender from the program
 12 and impose the required punishment stated in the plea agreement after notice
 13 and hearing.

14
 15 SECTION 10. Use of program as disciplinary sanction.

16 (a) The drug court program may be utilized as a disciplinary sanction
 17 for a violation of a condition of parole related to substance abuse for
 18 eligible offenses, or in a case where the offender has been tried for an
 19 eligible offense as provided by law, given either a deferred or suspended
 20 sentence, and has violated a condition of the sentence.

21 (b) The drug court judge shall not order an offender into treatment
 22 within the scope of any drug court program without prior approval from the
 23 designated drug court team, or the prosecuting attorney if no team is
 24 designated.

25 (c) Any drug court judge having a criminal case assigned where drug
 26 court processing appears to be more appropriate for the offender, may request
 27 a review of the case by the drug court team, or if no team is designated, a
 28 review by the prosecuting attorney and the defense attorney.

29 (d) If the prosecuting attorney and the defense attorney or offender
 30 agree, the case may be transferred to the drug court program with the
 31 approval of a designated drug court judge.

32 (e) After a case has been transferred to the drug court docket, it
 33 shall continue with the designated drug court judge until the offender is
 34 removed or released from the program.

35 (f) The offenders whose cases have been transferred from a regular
 36 criminal case docket to the drug court docket shall be required to have a

1 drug court investigation and complete the drug court process prior to
 2 placement in any treatment program authorized by this act.

3
 4 SECTION 11. Successful completion of program.

5 (a) When an offender has successfully completed the drug court
 6 program, the criminal case against the offender shall be dismissed.

7 (b) The final disposition order for a drug court case shall be filed
 8 with the drug court judge assigned to the case, and shall indicate the
 9 sentence specified in the written plea agreement.

10 (c) A copy of the final disposition order for the drug court case
 11 shall also be filed in the original criminal case file under the control of
 12 the court clerk which is open to the public for inspection.

13 (d) Original criminal case files which are under the control of the
 14 court clerk and which are subsequently assigned to the drug court program
 15 shall be marked with a pending notation until a final disposition order is
 16 entered in the drug court case.

17 (e) After an offender completes the program, the drug court case file
 18 shall be sealed by the drug court judge and may be destroyed after ten (10)
 19 years.

20 (f) The prosecuting attorney shall have access to sealed drug court
 21 case files without a court order.

22 (g) A record pertaining to an offense resulting in a successful
 23 completion of a drug court program shall not, without the offender's
 24 consent in writing, be used in any way which could result in the denial
 25 of any employee benefit.

26
 27 SECTION 12. Implementation of act.

28 (a) For purposes of this act, the following state agencies shall
 29 jointly develop a standardized testing instrument with an appropriate
 30 scoring device for use by all the circuit courts in this state in
 31 implementing the Arkansas Drug Court Act:

- 32 (1) The Department of Correction;
- 33 (2) The Department of Community Correction;
- 34 (3) The Administrative Office of the Courts;
- 35 (4) The Department of Human Services;
- 36 (5) The Department of Health;

1 (6) The Department of Education; and

2 (7) The Department of Workforce Education.

3 (b) The Administrative Office of the Courts shall promulgate rules,
4 procedures, and forms necessary to implement the Arkansas Drug Court Act to
5 ensure statewide uniformity in procedures and forms.

6 (c)(1) The Department of Health is directed to develop a training and
7 implementation manual for drug court programs with the assistance of the
8 Department of Human Services, the Department of Education, the Department of
9 Workforce Education, the Department of Correction, the Department of
10 Community Correction, and the Administrative Office of the Courts.

11 (2) The Department of Health shall provide technical assistance
12 to the circuit courts in implementing drug court programs.

13 (d) All participating agencies shall promulgate rules as necessary to
14 comply with the provisions of this act.

15 (e) Each circuit court shall establish rules for their jurisdiction
16 upon implementation of a drug court program.

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18 SECTION 13. Any preadjudication drug courts shall be given priority
19 in receiving any funds dispersed from the MAG Drug Court Fund.

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