

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 18

"TO EXPAND DRUG COURT PROGRAMS AND TO CREATE A DIVISION OF DRUG
COURT PROGRAMS WITHIN THE ADMINISTRATIVE OFFICE OF THE COURTS."

Amendment No. 2 to Senate Bill No. 18.

Amend Senate Bill No. 18 as originally introduced:

Add Senators Laverty, Altes, Madison, T. Smith, R. Thompson, Trusty,
Whitaker, and Wilkinson as cosponsors of the bill

AND

Add Representatives Key, Berry, Burkes, Cornwell, Edwards, Gaskill,
Glidewell, R. Green, Hardwick, Harris, Medley, Norton, Patterson, S. Prater,
Ragland, Rosenbaum, L. Smith, Wells, and Woods as cosponsors of the bill

AND

Page 1, delete line 11, and substitute the following:
"ADMINISTRATIVE OFFICE OF THE COURTS; TO CREATE THE DRUG COURT ADVISORY
COMMITTEE; AND FOR"

AND

Page 1, delete line 15, and substitute the following:
"TO EXPAND DRUG COURT PROGRAMS; TO"

AND

Page 1, delete line 18, and substitute the following:
"COURTS; AND TO CREATE THE DRUG COURT ADVISORY COMMITTEE."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 9-27-323(e), concerning diversion
agreements in delinquency cases and family in need of services cases, is
amended to read as follows:



(e) Diversion agreements shall be limited to providing for:

(1) Nonjudicial probation under the supervision of the intake officer or probation officer for a period during which the juvenile may be required to comply with specified conditions concerning his or her conduct and activities; ~~and~~

(2) Participation in a court-approved program of education, counseling, or treatment; ~~and~~

(3) Participation in a court-approved teen court; and

(4) Participation in a drug court program.

SECTION 2. Arkansas Code § 9-27-334 is amended to read as follows:
9-27-334. Disposition - Dependent-neglected - Generally.

(a) If a juvenile is found to be dependent-neglected, the circuit court may enter an order making any of the following dispositions:

(1) Order family services;

(2)(A) If it is in the best interest of the juvenile, transfer custody of the juvenile to the Department of Health and Human Services, to another licensed agency responsible for the care of juveniles, or to a relative or other individual.

(B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency as defined at § 9-28-402(12).

(C) All juveniles in shelters or awaiting foster care placement who are in the custody of the department are "homeless children and youth" as defined at 42 U.S.C. § 11434a(2), as in effect on February 1, 2005.

(D) If the court transfers custody of the juvenile to the department, the court shall issue orders regarding educational issues of the juvenile as follows:

(i) Determine if the parent or guardian shall have access to school records of the juvenile;

(ii) Determine if the parent or guardian who has access to school records of the juvenile is entitled to obtain information on the current placement of the juvenile, that is, the name and address of the foster parent or provider; and

(iii) Determine if the parent or guardian may participate in school conferences or similar activities at school.

(E) If the court transfers custody of the juvenile to the department, the court may appoint an individual to consent to an initial evaluation and serve as a surrogate parent pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on February 1, 2005;

(3) If it is in the best interest of the juvenile, grant permanent custody to an individual upon proof that the parent or guardian from whom the juvenile has been removed has not complied with the orders of the court or upon proof that no reunification services should be required to reunite the juvenile with his or her parent or parents and that no further services or periodic reviews are required; or

(4)(A) Order that the parent, both parents, or the guardian of the juvenile:

(i) ~~attend~~ Attend a court-ordered parental responsibility training program, if available; or

(ii) Participate in a drug court program.

(B) The court may make reasonable orders requiring proof of completion of such a training program within a certain time period and payment of a fee covering the cost of the training program.

(b) Such an order of custody shall supersede an existing court order of custody and shall remain in full force and effect until a subsequent order of custody is entered by a court of competent jurisdiction.

(c) The court may provide that any violation of its orders shall subject the parent, both parents, the juvenile, the custodian, or the guardian to contempt sanctions.

SECTION 3. Arkansas Code § 16-98-302 is amended to read as follows:
16-98-302. Definitions Purpose and intent.

For purposes of this subchapter:

~~(1) "Drug court program" means a highly structured judicial intervention process for substance abuse treatment of eligible offenders which requires successful completion of the drug court program treatment in lieu of incarceration; and~~

~~(2) "Drug court team" means a circuit judge, a prosecuting attorney, a defense attorney, and one (1) or more addiction counselors.~~

(a) There is a critical need for judicial intervention and support for effective treatment programs that reduce the incidence of drug use, drug addiction, and family separation due to parental substance abuse and drug-related crimes. It is the intent of the General Assembly for this subchapter to enhance public safety by facilitating the creation, expansion, and coordination of drug court programs.

(b) The goals of the drug court programs in this state shall be consistent with the standards adopted by the United States Department of Justice and recommended by the National Association of Drug Court Professionals and shall include the following key components:

(1) Integration of substance abuse treatment with justice system case processing;

(2) Use of a nonadversarial approach in which prosecution and defense promote public safety while protecting the right of the accused to due process;

(3) Early identification of eligible participants and prompt placement of eligible participants;

(4) Access to a continuum of treatment, rehabilitation, and related services;

(5) Frequent testing for alcohol and illicit drugs;

(6) A coordinated strategy among the judge, prosecution, defense, and treatment providers to govern offender compliance;

(7) Ongoing judicial interaction with each participant;

(8) Monitoring and evaluation of the achievement of program goals and effectiveness;

(9) Continuing interdisciplinary education to promote effective planning, implementation, and operation; and

(10) Development of partnerships with public agencies and community-based organizations to generate local support and enhance drug court effectiveness.

(c)(1) Drug court programs are specialized court dockets within the existing structure of the Arkansas court system. Drug court programs offer

judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases.

(2) The creation of a drug court docket and the appointment of a circuit judge to that docket shall be approved by the administrative judge in each judicial circuit and made a part of the judicial circuit's administrative plan required by Arkansas Supreme Court Administrative Order Number 14.

SECTION 4. Arkansas Code § 16-98-303 is amended to read as follows:
16-98-303. Drug court programs authorized.

(a)(1) Each judicial district of this state is authorized to establish a drug court program under this subchapter, which.

(2)(A) The structure, method, and operation of each drug court program may differ and should be based upon the specific needs of and resources available to the judicial district where the drug court program is located.

(B)(i) A drug court program may be preadjudication or postadjudication subject to the availability of funds for an adult offender.

(ii) A drug court program may be used in a delinquency case or a family in need of services case pursuant to a diversion agreement under § 9-27-323.

(iii) A drug court program may be used in a dependency-neglect case under § 9-27-334.

(3) Notwithstanding the authorization described in subdivision (a)(1) of this section, no judge of a circuit court, drug court, or juvenile court may order any services or treatment under subsection (b) of this section or § 16-98-305 unless:

(A) An administrative and programmatic appropriation has been made for those purposes;

(B) Administrative and programmatic funding is available for those purposes; and

(C) Administrative and programmatic positions have been authorized for those purposes.

(b)(1) A drug court program shall incorporate services from the Department of Community Correction, the Department of Health and Human Services, and the Administrative Office of the Courts.

(2) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the Department of Community Correction shall:

(A) Provide positions for persons to serve as probation officers, drug counselors, and administrative assistants;

(B) Provide for drug testing for drug court program participants;

(C) Provide for intensive outpatient treatment for drug court program participants; and

(D) Provide for intensive short-term and long-term residential treatment for drug court program participants.

(3) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the Department of Health and Human Services shall:

(A) Provide positions for persons to serve as drug counselors and administrative assistants in delinquency cases, dependency-

neglect cases, and family in need of services cases;

(B) Provide for drug testing for drug court program participants in delinquency cases, dependency-neglect cases, and family in need of services cases;

(C) Provide for intensive outpatient treatment for drug court program participants in delinquency cases, dependency-neglect cases, and family in need of services cases;

(D) Provide for intensive short-term and long-term residential treatment for drug court program participants in delinquency cases, dependency-neglect cases, and family in need of services cases;

(E) Certify and license treatment providers and treatment facilities that serve drug court program participants;

(F) Provide and oversee residential beds for drug court programs;

(G) Oversee catchment area facilities for drug court programs;

(H) Act as a liaison between the courts and drug court program participants; and

(I) Oversee performance standards for residential and long-term facilities providing services to drug court programs.

(4) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the Administrative Office of the Courts shall:

(A) Provide state-level coordination and support for drug court judges and their programs;

(B) Administer funds for the maintenance and operation of local drug court programs;

(C) Provide training and education to drug court judges and other professionals involved in drug court programs; and

(D) Operate as a liaison between drug court judges and other state-level agencies providing services to drug court programs.

~~(b)~~(c)(1) A drug court program shall not be available to any defendant who:

(A) ~~having~~ Has a pending violent criminal charge against him or her;

(B) Has been convicted of a violent felony offense or adjudged guilty as a juvenile of a violent felony offense; or

(C)(i) Is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(ii) The exclusion under subdivision (c)(1)(C)(i) of this section shall not apply to the offense of prostitution, § 5-70-102.

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

(3) Nothing in this subchapter shall require a drug court judge to consider or accept every offender with a treatable condition or addiction, regardless of the fact that the controlling offense is eligible for consideration in the program.

(4) Any ~~offender~~ defendant who is ~~determined not appropriate for~~ the denied entry to a drug court program shall be prosecuted as provided by law.

~~(e)~~(d)(1) Drug court programs may require a separate judicial processing system differing in practice and design from the traditional

adversarial criminal prosecution and trial systems.

(2) A drug court team shall be designated by a circuit judge assigned to manage the drug court docket and may include consisting of a circuit judge to administer the program, a prosecuting attorney, a public defender or private defense attorney, and one (1) or more addiction counselors, one (1) or more probation officers, one (1) or more private treatment provider representatives, who has appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions and any other individual or individuals determined necessary by the drug court judge.

(3) The administrative judge of the judicial district ~~or an agreement of a majority of the circuit judges in the judicial district~~ shall designate one (1) or more circuit judges to administer the drug court program.

~~(d) All drug court programs shall be required to keep reliable data on:~~

- ~~(1) Recidivism;~~
- ~~(2) Relapses;~~
- ~~(3) Restarts;~~
- ~~(4) Sanctions imposed; and~~
- ~~(5) Incentives given.~~

(e) Each judicial district may develop a training and implementation manual for drug court programs with the assistance of the:

- (1) Department of Health and Human Services;
- (2) Department of Education;
- (3) Department of Workforce Education;
- ~~(4) Department of Correction;~~
- ~~(5)~~(4) Department of Community Correction; and
- ~~(6)~~(5) Administrative Office of the Courts.

(f) A Division of Drug Court Programs is created within the Administrative Office of the Courts. The position of Drug Court Coordinator is created within the Division of Drug Court Programs and the Drug Court Coordinator shall:

(1) Provide assistance, counsel, and advice to the Drug Court Advisory Committee;

(2) Serve as a coordinator between drug court judges, the Department of Community Correction, the Bureau of Alcohol and Drug Abuse Prevention, private treatment provider representatives, and public health advocates;

(3) Establish, manage, and maintain a uniform statewide drug court information system to track information and data on drug court program participants to be approved by the Drug Court Advisory Committee;

(4) Train and educate drug court judges and drug court staff in those judicial districts maintaining a drug court program;

(5) Provide staff assistance to the Arkansas Association of Drug Court Professionals;

(6) Oversee the disbursement of funds appropriated to the Administrative Office of the Courts for the maintenance and operation of local drug court programs based on a formula developed by the Administrative Office of the Courts and approved by the Drug Court Advisory Committee; and

(7) Develop guidelines to be approved by the Drug Court Advisory Committee to serve as a framework for developing effective local drug court

programs and to provide a structure for conducting research and evaluation for drug court program accountability.

SECTION 5. Arkansas Code Title 16, Chapter 98, Subchapter 3 is amended to add additional sections to read as follows:

16-98-305. Required resources.

Each drug court program established under this subchapter, subject to an appropriation, funding, and position authorization, both programmatic and administrative, shall be provided with the following resources:

(1) The Department of Community Correction shall:

(A)(i) Except as provided in subdivision (1)(A)(ii) of this section, provide a minimum of one (1) drug counselor position for every thirty (30) drug court participants.

(ii) If a drug court judge does not require the drug counselor position or positions described in subdivision (1)(A)(i) of this section, funding for a drug counselor or counselors shall be provided under subdivision (1)(E)(i) of this section;

(B) Provide a minimum of one (1) probation officer position for every forty (40) drug court participants;

(C) Provide a minimum of one (1) administrative assistant position for each drug court program;

(D) Provide for drug screens and testing as needed; and

(E)(i) Based upon a formula to be developed by the Administrative Office of the Courts and approved by the Drug Court Advisory Committee, provide for:

(a) Intensive outpatient treatment to be made available to drug court programs in each judicial district;

(b) Short-term and long-term inpatient treatment to be made available to drug court programs in each judicial district; and

(c) A drug court judge to contract with a local licensed treatment provider for counseling services for drug court participants so that each privately contracted addiction counselor does not have more than thirty (30) drug court participants in his or her caseload.

(ii) The Department of Community Correction shall enter into an inter-agency memorandum of understanding with the Administrative Office of the Courts in order to establish the process and procedures for the payment of treatment services ordered by a drug court judge and funded through the Department of Community Correction.

(iii) Expenditures of funds for treatment services allocated to each drug court program under the formula described in subdivision (1)(E)(i) of this section shall be at the direction of a drug court judge, except as limited by the procedures adopted in the memorandum of understanding described in subdivision (1)(E)(ii) of this section;

(2) The Department of Health and Human Services shall:

(A) Provide a minimum of one (1) drug counselor position for every thirty (30) drug court participants in delinquency cases, dependency-neglect cases, and family in need of services cases;

(B) Provide for drug screens and testing as needed in delinquency cases, dependency-neglect cases, and family in need of services cases; and

(C) Provide for intensive outpatient treatment and short-

term and long-term inpatient treatment to be made available to drug court programs in each judicial district in delinquency cases, dependency-neglect cases, and family in need of services cases based upon a formula approved by the Drug Court Advisory Committee; and

(3) The Administrative Office of the Courts shall:

(A) Provide funding to be approved by the Drug Court Advisory Committee for additional ongoing maintenance and operation costs of local drug court programs not provided by the Department of Community Correction or the Department of Health and Human Services, including local drug court program supplies, education, travel, and related expenses;

(B) Provide direct support to the drug court judge and drug court program;

(C) Provide coordination between the multidisciplinary team and the drug court judge;

(D) Provide case management;

(E) Monitor compliance of drug court participants with drug court program requirements; and

(F) Provide drug court program evaluation and accountability.

16-98-306. Collection of data.

(a) A drug court program shall collect and provide data on drug court applicants, drug court participants, and the entire drug court program as required by the Division of Drug Court Programs within the Administrative Office of the Courts in accordance with the rules promulgated under § 16-98-307.

(b) The data collected for evaluation purposes under subsection (a) of this section shall:

(1) Include a minimum standard data set developed and specified by the Division of Drug Court Programs; and

(2) Be maintained in the court files or be otherwise accessible by the courts and the Division of Drug Court Programs.

(c)(1) As directed by the Division of Drug Court Programs, after an individual is discharged either upon completion or termination of a drug court program, the drug court program shall conduct, as much as practical, follow-up contacts with and reviews of former drug court participants for key outcome indicators of drug use, recidivism, and employment.

(2)(A) The follow-up contacts with and reviews of former drug court participants shall be conducted as frequently and for a period of time determined by the Division of Drug Court Programs based upon the nature of the drug court program and the nature of the participants.

(B) The follow-up contacts with and reviews of former drug court participants are not extensions of the drug court's jurisdiction over the drug court participants.

(d) For purposes of standardized measurement of success of drug court programs across the state, the Division of Drug Court Programs in consultation with other state agencies and subject to the approval of the Drug Court Advisory Committee shall adopt an operational definition of terms such as "recidivism", "retention", "relapses", "restarts", "sanctions imposed", and "incentives given" to be used in any evaluation and report of drug court programs.

(e) Each drug court program shall provide to the Division of Drug

Court Programs all information requested by the Division of Drug Court Programs.

(f) The Division of Drug Court Programs, the Department of Community Correction, the Bureau of Alcohol and Drug Abuse Prevention, and the Arkansas Crime Information Center shall work together to share and make available data to provide a comprehensive data management system for the state's drug court programs.

(g)(1) The Administrative Office of the Courts shall:

(A) Develop a statewide evaluation model to be approved by the Drug Court Advisory Committee; and

(B) Conduct ongoing evaluations of the effectiveness and efficiency of all drug court programs.

(2) A report of the evaluations of the Administrative Office of the Courts shall be submitted to the General Assembly by July 1 of each year.

16-98-307. Drug Court Advisory Committee – Creation.

(a) There is created a Drug Court Advisory Committee.

(b) The Drug Court Advisory Committee shall consist of the following members:

(1) The Chief Justice of the Supreme Court or the Chief Justice's designee who shall serve as chair;

(2) The Director of the Administrative Office of the Courts or the director's designee;

(3) A judge to be appointed by the Arkansas Judicial Council;

(4) The Director of the Department of Community Correction or the director's designee;

(5) The Director of the Department of Health and Human Services or the director's designee;

(6) The Director of the Bureau of Alcohol and Drug Abuse Prevention or the director's designee;

(7) A prosecutor appointed by the Prosecutor Coordinator;

(8) A public defender appointed by the Executive Director of the Arkansas Public Defender Commission;

(9) A member of the Senate appointed by the President Pro Tempore of the Senate;

(10) A member of the House of Representatives appointed by the Speaker of the House of Representatives; and

(11) The Arkansas Drug Director or the Arkansas Drug Director's designee.

(c) The chair or the chair's designee shall promptly call the first meeting after the effective date of this section.

(d)(1) The committee shall conduct its meetings at the State Capitol or at any place designated by the chair or the chair's designee.

(2) Meetings shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair.

(e) If any vacancy occurs on the committee, the vacancy shall be filled by the same process as the original appointment.

(f) The committee shall establish rules and procedures for conducting its business.

(g) Members of the committee shall serve without compensation.

(h) A majority of the members of the committee shall constitute a quorum for transacting any business of the committee.

(i)(1) The committee shall have the authority to approve rules to implement this subchapter, and the Department of Community Correction, the Department of Health and Human Services, and the Administrative Office of the Courts shall promulgate the rules by January 1, 2008.

(2) The rules described in subdivision (i)(1) of this section shall include at least the following:

(A) Provisions to identify data to be collected for evaluation;

(B) Provisions to ensure uniform data collection; and

(C) A formula for equitable funding of drug court programs among the judicial districts based on the number of drug court participants.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there is a critical need for judicial intervention and support for effective treatment programs that reduce the incidence of drug use, drug addiction, and family separation due to parental substance abuse and drug-related crimes; that this act expands drug court programs and creates the Drug Court Advisory Committee; and that this act is immediately necessary because any delay in the expansion of drug court programs or the creation of the Drug Court Advisory Committee will harm citizens of this state who will benefit from judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator B. Pritchard
GRH/YTC - 02-21-2007 15:58
GRH232 _____ Secretary