

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1059

Amendment Number: H1

Bill Subtitle: CONCERNING THE INTRASTATE TRANSFER OF A SPECIALTY COURT PROGRAM PARTICIPANT TO ANOTHER SPECIALTY COURT PROGRAM; TO CREATE A VETERANS TREATMENT SPECIALTY COURT PROGRAM; AND TO CREATE A DWI/BWI SPECIALTY COURT PROGRAM.

Basic Change :

Sponsors: Rep. Dalby and Sen. Clark

House Amendment 1 --- HB1059 H-1 modifies the requirements of the original specialty court when the successor specialty court removes the participant from its program. Under the original bill, the successor specialty court judge was required to request the original specialty court to enter an order directing that the participant's original case and file be transferred to the "new jurisdiction for adjudication." It was unclear whether the words "new jurisdiction" meant the original specialty court, the successor specialty court, or the original court with jurisdiction over the criminal case. Amendment H-1 gives the original specialty court the authority to determine an appropriate disposition of the matter.

Amendment H-1 additionally clarifies that a veterans treatment specialty court has the authority to require that a participant pay the same fees to the Division of Community Correction (DCC) that the other specialty court programs currently may require a participant to pay.

Original Bill --- HB1059 authorizes Arkansas circuit courts to establish veterans treatment specialty court programs. A person is eligible for participation in a veterans treatment specialty court program if the person has a substance use disorder or mental health disorder; is eighteen (18) years of age or older; is a veteran or a service member of the United States Armed Forces or National Guard; and agrees to comply with the policies and procedures developed by the veterans treatment specialty court. A participant in the program will have their case dismissed and record sealed if the veterans treatment specialty court judge determines that a program participant has successfully completed the program and that the case being dismissed and the record sealed is appropriate and the prosecuting attorney recommends dismissing the case and sealing the record.

Further, the bill authorizes Arkansas district courts to establish DWI/BWI specialty court programs. A person is eligible to participate in the program if they have a substance use disorder; are eighteen (18) years of age or older; have pled guilty or nolo contendere or have been found guilty of the offense of Driving or Boating While Intoxicated and is awaiting sentencing for the offense; and agree to comply with the policies and procedures developed by program.

The establishment of any such specialty court program would be subject to the approval of the Arkansas Supreme Court.

Revenue Impact :

None.

Taxpayer Impact :

HB1059 creates additional specialty court programs and allows a participant to transfer to another specialty court. After program completion, a veterans treatment specialty court case can be dismissed and the record sealed except for certain offenses. A participant in a DWI/BWI specialty court program

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is not eligible to have his or her charges dismissed.

Resources Required :

None.

Time Required :

No additional time required.

Procedural Changes :

The Office of Driver Services (ODS) would update training materials to include the new specialty courts.

Other Comments :

None.

Legal Analysis :

House Amendment 1 --- HB1059 H-1 gives the original specialty court the authority to determine an appropriate disposition of the matter. HB1059 H-1 also clarifies that a veterans treatment specialty court has the authority to require a participant pay the same fees to DCC that other specialty court participants may be required to pay.

Original Bill --- Under current law, the Department of Finance and Administration (DFA) is responsible for suspending the driving privileges of a person for six months if DFA receives an order from a court of the State of Arkansas stating that the person has been enrolled in a specialty court program because of a controlled substances offense. See § 27-16-915. Additionally, if the enrollee is the holder of a commercial driver's license (CDL), DFA is also required to suspend or disqualify the holder's CDL for a period of one year if the enrollee was admitted to a specialty court due to a controlled substances offense. Courts of the State of Arkansas may also order the DFA to issue a restricted driver's license during the time of suspension. Enrollment in a veterans treatment specialty court program or a DWI/BWI specialty court program for a drug offense as set forth in HB1059, would trigger this suspension.

Also under current law, a person whose driving privileges are suspended because of an administrative order or conviction for any violation or offense is required to pay a reinstatement fee of \$100 multiplied by the number of orders or convictions to the ODS. Act 992 of 2019 provided a waiver of multiple reinstatement fees to suspended drivers who owe multiple reinstatement fees. The waiver is available if:

- The driver pays all other court costs, fines and fees prior to applying for the waiver;
- Graduates from a specialty court program;

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- Provides the sentencing court with a reinstatement letter from DFA showing all outstanding suspension or revocation orders; and
- Pays one (1) reinstatement fee in the amount of \$100.

The waiver of reinstatement fees does not apply to drivers holding a suspended commercial driver's license; a suspension for DWI or BWI, Underage DUI, or Refusal to Submit. Graduation from either a veterans treatment specialty court program or a DWI/BWI specialty court program, as set forth in HB1059, would satisfy the statutory requirement of graduating from a specialty court program for the waiver provided by Act 992 of 2019.