

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2553

5 By: Representatives D. Johnson, Pate
6
7

For An Act To Be Entitled

9 AN ACT TO EXPAND DRUG COURT PROGRAMS; TO CREATE A
10 DIVISION OF DRUG COURT PROGRAMS WITHIN THE
11 ADMINISTRATIVE OFFICE OF THE COURTS; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 TO EXPAND DRUG COURT PROGRAMS AND TO
15 CREATE A DIVISION OF DRUG COURT PROGRAMS
16 WITHIN THE ADMINISTRATIVE OFFICE OF THE
17 COURTS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 16-98-302 is amended to read as follows:
24 16-98-302. Definitions Purpose and intent.

25 ~~For purposes of this subchapter:~~

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

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

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



1 coordination of drug court programs.

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

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

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

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

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

15 (5) Frequent testing for alcohol and illicit drugs;

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

18 (7) Ongoing judicial interaction with each participant;

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

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

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

26 (c)(1) Drug court programs are specialized court dockets within the
 27 existing structure of the Arkansas court system. Drug court programs offer
 28 judicial monitoring of intensive treatment and strict supervision of addicts
 29 in drug and drug-related cases.

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

35
 36 SECTION 2. Arkansas Code § 16-98-303 is amended to read as follows:

1 16-98-303. Drug court programs authorized.

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

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

8 (B) A drug court program may be preadjudication or
9 postadjudication subject to the availability of funds.

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

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

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

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

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

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

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

27 (A) Certify and license treatment providers and treatment
28 facilities that serve drug court program participants;

29 (B) Provide and oversee residential beds for drug court
30 programs;

31 (C) Oversee catchment area facilities for drug court
32 programs;

33 (D) Act as a liaison between the courts and drug court
34 program participants; and

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

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

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

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

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

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

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

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

16 (B) Has been convicted of a violent felony offense or
 17 adjudicated delinquent as a juvenile of a violent felony offense; or

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

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

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

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

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

31 ~~(e)~~(d)(1) Drug court programs may require a separate judicial
 32 processing system differing in practice and design from the traditional
 33 adversarial criminal prosecution and trial systems.

34 (2) A drug court team shall be designated by a circuit judge
 35 assigned to manage the drug court docket and may include ~~consisting of~~ a
 36 circuit judge ~~to administer the program~~, a prosecuting attorney, a public

1 defender or private defense attorney, ~~and~~ one (1) or more addiction
 2 counselors, one (1) or more probation officers, one (1) or more private
 3 treatment provider representatives, who has appropriate understanding of the
 4 goals of the program and of the appropriate treatment methods for the various
 5 ~~conditions~~ and any other individual or individuals determined necessary by
 6 the drug court judge.

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

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

- 13 ~~(1) Recidivism;~~
- 14 ~~(2) Relapses;~~
- 15 ~~(3) Restarts;~~
- 16 ~~(4) Sanctions imposed; and~~
- 17 ~~(5) Incentives given.~~

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

- 20 (1) Department of Health and Human Services;
- 21 (2) Department of Education;
- 22 (3) Department of Workforce Education;
- 23 ~~(4) Department of Correction;~~
- 24 ~~(5)~~(4) Department of Community Correction; and
- 25 ~~(6)~~(5) Administrative Office of the Courts.

26 (f)(1) Subject to an appropriation, funding, and position
 27 authorization, a Division of Drug Court Programs is created within the
 28 Administrative Office of the Courts.

29 (2) The position of Drug Court Coordinator is created within the
 30 Division of Drug Court Programs and the Drug Court Coordinator shall:

31 (A) Provide assistance, counsel, and advice to the Drug
 32 Court Committee of the Arkansas Judicial Council;

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

1 (C) Establish, manage, and maintain a uniform statewide
 2 drug court information system to track information and data on drug court
 3 program participants;

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

6 (E) Provide staff assistance to the Arkansas Association
 7 of Drug Court Professionals;

8 (F) Oversee the disbursement of state funds specifically
 9 appropriated to the Division of Drug Court Programs for the maintenance and
 10 operation of local drug court programs pursuant to a formula developed by the
 11 Administrative Office of the Courts and approved by the Drug Court Committee
 12 of the Arkansas Judicial Council; and

13 (G) Develop guidelines to serve as a framework for
 14 developing effective local drug court programs and to provide a structure for
 15 conducting research and evaluation for drug court program accountability.

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

19 16-98-305. Required resources.

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

23 (1) The Department of Community Correction shall:

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

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

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

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

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

36 (E)(i) Pursuant to a distribution formula developed by the

1 Drug Court Committee of the Arkansas Judicial Council and approved by the
 2 Legislative Council:

3 (a) Provide for intensive outpatient treatment
 4 and short-term and long-term inpatient treatment to be made available to drug
 5 court programs in each judicial district; and

6 (b) Provide funding for a drug court judge to
 7 contract with a local licensed treatment provider for counseling services for
 8 drug court participants so that each privately contracted addiction counselor
 9 does not have more than thirty (30) drug court participants in his or her
 10 caseload.

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

16 (iii) Expenditures of funds for treatment services
 17 allocated to each drug court program pursuant to the formula described in
 18 subdivision (1)(E)(i) of this section shall be at the direction of the drug
 19 court judge; and

20 (2) The Administrative Office of the Courts shall provide
 21 funding for additional ongoing maintenance and operation costs of local drug
 22 court programs not provided by the Department of Community Correction
 23 including local drug court program supplies, education, travel, and related
 24 expenses.

25
 26 16-98-306. Collection of data.

27 (a) A drug court program shall collect and provide data on drug court
 28 applicants, drug court participants, and the entire drug court program as
 29 required by the Division of Drug Court Programs within the Administrative
 30 Office of the Courts.

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

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

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

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

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

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

13 (d) For purposes of standardized measurement of success of drug court
 14 programs across the state, the Division of Drug Court Programs in
 15 consultation with other state agencies shall adopt an operational definition
 16 of terms such as “recidivism”, “relapses”, “restarts”, “sanctions imposed”,
 17 “incentives given”, and “retention” to be used in any evaluation and report
 18 of drug court programs.

19 (e) Each drug court program shall provide to the Division of Drug
 20 Court Programs all information requested by the Division of Drug Court
 21 Programs.

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

27 (g)(1) The Administrative Office of the Courts shall develop a
 28 statewide evaluation model and conduct ongoing evaluations of the
 29 effectiveness and efficiency of all drug court programs.

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

33
 34
 35
 36