

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

As Engrossed: S2/22/07

# A Bill

SENATE BILL 18

5 By: Senators B. Pritchard, Lavery, Altes, Madison, T. Smith, R. Thompson, Trusty, Whitaker, Wilkinson  
6 By: Representatives Key, Berry, Burkes, Cornwell, Edwards, Gaskill, Glidewell, R. Green, Hardwick,  
7 Harris, Medley, Norton, Patterson, S. Prater, Ragland, Rosenbaum, L. Smith, Wells, Woods  
8  
9

## For An Act To Be Entitled

11 AN ACT TO EXPAND DRUG COURT PROGRAMS; TO CREATE A  
12 DIVISION OF DRUG COURT PROGRAMS WITHIN THE  
13 ADMINISTRATIVE OFFICE OF THE COURTS; TO CREATE  
14 THE DRUG COURT ADVISORY COMMITTEE; AND FOR OTHER  
15 PURPOSES.  
16

## Subtitle

17 TO EXPAND DRUG COURT PROGRAMS; TO CREATE  
18 A DIVISION OF DRUG COURT PROGRAMS WITHIN  
19 THE ADMINISTRATIVE OFFICE OF THE COURTS;  
20 AND TO CREATE THE DRUG COURT ADVISORY  
21 COMMITTEE.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

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

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

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

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



- 1                   (3) *Participation in a court-approved teen court; and*
- 2                   *(4) Participation in a drug court program.*

3

4           SECTION 2. *Arkansas Code § 9-27-334 is amended to read as follows:*  
5           9-27-334. *Disposition - Dependent-neglected - Generally.*

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

8                   (1) *Order family services;*

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

13                   (B) *If the court grants custody of the juvenile to the*  
14 *department, the juvenile shall be placed in a licensed or approved foster*  
15 *home, shelter, or facility or an exempt child welfare agency as defined at §*  
16 *9-28-402(12).*

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

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

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

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

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

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

36                   (3) *If it is in the best interest of the juvenile, grant*

1 permanent custody to an individual upon proof that the parent or guardian  
 2 from whom the juvenile has been removed has not complied with the orders of  
 3 the court or upon proof that no reunification services should be required to  
 4 reunite the juvenile with his or her parent or parents and that no further  
 5 services or periodic reviews are required; or

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

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

10 (ii) Participate in a drug court program.

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

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

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

20  
 21 SECTION 3. Arkansas Code § 16-98-302 is amended to read as follows:

22 16-98-302. ~~Definitions~~ Purpose and intent.

23 ~~For purposes of this subchapter:~~

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

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

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

36 (b) The goals of the drug court programs in this state shall be

1 consistent with the standards adopted by the United States Department of  
2 Justice and recommended by the National Association of Drug Court  
3 Professionals and shall include the following key components:

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

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

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

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

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

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

16 (7) Ongoing judicial interaction with each participant;

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

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

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

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

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

33  
34 SECTION 4. Arkansas Code § 16-98-303 is amended to read as follows:  
35 16-98-303. Drug court programs authorized.

36 (a)(1) Each judicial district of this state is authorized to establish

1 a drug court program under this subchapter, ~~which.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4                   (A) Provide positions for persons to serve as drug  
5 counselors and administrative assistants in delinquency cases, dependency-  
6 neglect cases, and family in need of services cases;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) Nothing in this subchapter shall require a drug court judge  
14 to consider or accept 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.

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

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

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

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

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

1 ~~en:~~

2 ~~(1) Recidivism;~~

3 ~~(2) Relapses;~~

4 ~~(3) Restarts;~~

5 ~~(4) Sanctions imposed; and~~

6 ~~(5) Incentives given.~~

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

9 (1) Department of Health and Human Services;

10 (2) Department of Education;

11 (3) Department of Workforce Education;

12 ~~(4) Department of Correction;~~

13 ~~(5)~~(4) Department of Community Correction; and

14 ~~(6)~~(5) Administrative Office of the Courts.

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

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

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

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

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

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

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

36 (7) Develop guidelines to be approved by the Drug Court Advisory



1 Committee to serve as a framework for developing effective local drug court  
2 programs and to provide a structure for conducting research and evaluation  
3 for drug court program accountability.

4  
5 SECTION 5. Arkansas Code Title 16, Chapter 98, Subchapter 3 is amended  
6 to add additional sections to read as follows:

7 16-98-305. Required resources.

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

11 (1) The Department of Community Correction shall:

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

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

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

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

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

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

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

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

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

36 (ii) The Department of Community Correction shall

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

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

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

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

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

17 (C) Provide for intensive outpatient treatment and short-  
18 term and long-term inpatient treatment to be made available to drug court  
19 programs in each judicial district in delinquency cases, dependency-neglect  
20 cases, and family in need of services cases based upon a formula approved by  
21 the Drug Court Advisory Committee; and

22 (3) The Administrative Office of the Courts shall:

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

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

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

32 (D) Provide case management;

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

35 (F) Provide drug court program evaluation and  
36 accountability.

1  
2 16-98-306. Collection of data.

3 (a) A drug court program shall collect and provide data on drug court  
4 applicants, drug court participants, and the entire drug court program as  
5 required by the Division of Drug Court Programs within the Administrative  
6 Office of the Courts in accordance with the rules promulgated under § 16-98-  
7 307.

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

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

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

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

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

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

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

33 (e) Each drug court program shall provide to the Division of Drug  
34 Court Programs all information requested by the Division of Drug Court  
35 Programs.

36 (f) The Division of Drug Court Programs, the Department of Community

1 Correction, the Bureau of Alcohol and Drug Abuse Prevention, and the Arkansas  
2 Crime Information Center shall work together to share and make available data  
3 to provide a comprehensive data management system for the state's drug court  
4 programs.

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

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

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

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

12  
13 16-98-307. Drug Court Advisory Committee – Creation.

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

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

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

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

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

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

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

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

28 (7) A prosecutor appointed by the Prosecutor Coordinator;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22               (B) Provisions to ensure uniform data collection; and

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

25  
26       SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
27 General Assembly of the State of Arkansas that there is a critical need for  
28 judicial intervention and support for effective treatment programs that  
29 reduce the incidence of drug use, drug addiction, and family separation due  
30 to parental substance abuse and drug-related crimes; that this act expands  
31 drug court programs and creates the Drug Court Advisory Committee; and that  
32 this act is immediately necessary because any delay in the expansion of drug  
33 court programs or the creation of the Drug Court Advisory Committee will harm  
34 citizens of this state who will benefit from judicial monitoring of intensive  
35 treatment and strict supervision of addicts in drug and drug-related cases.  
36 Therefore, an emergency is declared to exist and this act being immediately

1 necessary for the preservation of the public peace, health, and safety shall  
2 become effective on:

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

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

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

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10 /s/ B. Pritchard

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