

State of Arkansas
88th General Assembly
Regular Session, 2011

As Engrossed: H3/11/11

A Bill

HOUSE BILL 1994

By: Representative McLean

For An Act To Be Entitled

AN ACT TO CREATE A DRIVING WHILE INTOXICATED COURT
PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A DRIVING WHILE INTOXICATED
COURT PROGRAM.

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

*SECTION 1. Arkansas Code Title 16 is amended to create a new chapter
to read as follows:*

Chapter 99 Treatment for Alcohol Abuse

Subchapter 1 – General Provisions

[Reserved]

Subchapter 2 – Arkansas Driving While Intoxicated Court Program Act

16-99-201. Title.

*This subchapter shall be known and may be cited as the "Arkansas
Driving While Intoxicated Court Program Act".*

*16-99-202. Purpose and intent. (a) There is a critical need for
judicial intervention and support for effective treatment programs that
reduce the incidence of alcohol abuse, alcohol addiction, impaired-driving
incidents, and family separation due to parental alcohol abuse and alcohol-
related crimes.*

*(b) It is the intent of the General Assembly for this subchapter to
enhance public safety by facilitating the creation, expansion, and
coordination of driving-while-intoxicated court programs. (c) The goals of*



the driving-while-intoxicated 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 the National Center for Driving While Intoxicated (DWI)
Courts 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. (d)(1) Driving while intoxicated (DWI) court programs are
specialized court dockets within the existing structure of the Arkansas court
system.

(2) The programs offer judicial monitoring of intensive
treatment and strict supervision of addicts in alcohol and alcohol-related
cases. (3) The implementation of a driving while intoxicated (DWI)
court and the creation of a driving while intoxicated (DWI) court docket
shall be at the discretion of the district judge and may be made a part of
the District Court Rules as part of the plan required by Supreme Court
Administrative Order No. 18.

16-99-203. Driving while intoxicated (DWI) court programs authorized.
(a)(1) Each district court and juvenile division of circuit court of
this state may implement a driving while intoxicated (DWI) court program
under this subchapter. (2) The structure, method, and operation of
each program may differ and should be based upon the specific needs of and
resources available to the district where the program is located. (b)(1) A

program may incorporate services from the Office of Alcohol and Drug Abuse Prevention of the Department of Human Services, and the Administrative Office of the Courts. (2) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the district court and juvenile division of circuit court may: (A) Provide positions for persons to serve as probation officers, alcohol counselors, and administrative assistants; (B) Provide for alcohol and drug testing for program participants; (C) Provide for intensive outpatient treatment for program participants; and (D) Provide for intensive short-term and long-term residential treatment for program participants. (3) Subject to appropriation, funding, and position authorization, both programmatic and administrative, the Department of Human Services may: (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 alcohol testing or drug testing, or both, for program participants in delinquency cases, dependency-neglect cases, and family in need of services cases; (C) Provide for intensive outpatient treatment for 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 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 program participants; (F) Provide and oversee residential beds for programs; (G) Oversee catchment area facilities for programs; (H) Act as a liaison between the courts and program participants; and (I) Oversee performance standards for residential and long-term facilities providing services to programs. (4) Subject to appropriation, funding, and position authorization, both programmatic and administrative, the Administrative Office of the Courts may: (A) Provide state-level coordination and support for driving while intoxicated (DWI) court judges and their programs; (B) Administer funds for the maintenance and operation of local programs; (C) Provide training and education to driving while intoxicated (DWI) court judges and

1 other professionals involved in the programs; and

2 (D) Operate as a liaison between driving while intoxicated
3 (DWI) court judges and other state-level agencies providing services to
4 programs. (c)(1) A program shall not be available to a defendant who:

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

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

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

10 subdivision (c)(1)(C)(i) of this section does not apply to the offense of
11 prostitution, § 5-70-102. (2) Eligible offenses may be further

12 restricted by the rules of a specific program. (3) This subchapter
13 does not require a driving while intoxicated (DWI) court judge to consider or
14 accept every offender with a treatable condition or addiction, regardless of
15 the fact that the controlling offense is eligible for consideration in the
16 program.

17 (4) A defendant who is denied entry to a program shall be
18 prosecuted as provided by law. (d)(1) Programs may require a separate
19 judicial processing system differing in practice and design from the
20 traditional adversarial criminal prosecution and trial systems. (2)

21 A driving while intoxicated (DWI) court team shall be designated by a
22 district judge or a judge from the juvenile division of circuit court
23 assigned to manage the driving while intoxicated court docket and may
24 include:

25 (A) A district judge;

26 (B) A prosecuting attorney;

27 (C) A public defender or private defense attorney;

28 (D) One (1) or more addiction counselors;

29 (E) One (1) or more probation officers;

30 (F) One (1) or more private treatment provider

31 representatives; and

32 (G) Any other individual or individuals determined
33 necessary by the driving while intoxicated court judge. (e) Each
34 district court may develop a training and implementation manual for programs
35 with the assistance of the: (1) Department of Human Services;

36 (2) Department of Education;

1 (3) Department of Career Education;
2 (4) Department of Community Correction; and
3 (5) Administrative Office of the Courts. (f)(1) A Division of
4 Driving While Intoxicated (DWI) Court Programs is created within the
5 Administrative Office of the Courts.
6 (2) The position of driving while intoxicated (DWI) court
7 coordinator and duties associated with the position shall be included within
8 the division, and the court coordinator may: (A) Provide
9 assistance, counsel, and advice to the Arkansas District Judges Council DWI
10 Courts Committee;
11 (B) Serve as a coordinator among driving while intoxicated
12 (DWI) court judges, the Department of Community Correction, the Office of
13 Alcohol and Drug Abuse Prevention, private treatment provider
14 representatives, and public health advocates;
15 (C) Establish, manage, and maintain a uniform statewide
16 information system to track information and data on drug court program
17 participants, to be reviewed by the committee;
18 (D) Train and educate driving while intoxicated (DWI)
19 court judges and driving while intoxicated (DWI) court staff in those
20 judicial districts maintaining a program; (E) Provide staff
21 assistance to the Arkansas Drug Court Professionals Association;
22 (F) Oversee the disbursement of funds appropriated to the
23 Administrative Office of the Courts for the maintenance and operation of
24 local programs based on a formula developed by the Administrative Office of
25 the Courts and reviewed by the committee; and (G) Develop
26 guidelines to be reviewed by the committee to serve as a framework for
27 developing effective local programs and to provide a structure for conducting
28 research and evaluation for program accountability. 16-99-204. Cost and
29 fees. (a) The driving while intoxicated (DWI) court judge may order the
30 offender to pay: (1) Court costs as provided in § 16-10-305;
31 (2) Treatment costs; (3) Drug testing costs;
32 (4) A program user fee; and
33 (5) Necessary supervision fees, including any applicable
34 residential treatment fees. (b)(1) The driving while intoxicated (DWI)
35 court judge shall establish a schedule for the payment of costs and fees.
36 (2) The cost for treatment, drug testing, and supervision shall be set

1 by the treatment and supervision providers respectively and made part of the
2 order of the driving while intoxicated (DWI) court judge for payment.

3 (3) Program user fees shall be set by the driving while intoxicated
4 (DWI) court judge. (4) Treatment, drug testing, and supervision
5 costs or fees may be paid directly or indirectly to the respective providers.

6 (5)(A) All court costs and program user fees assessed by the driving
7 while intoxicated (DWI) court judge shall be paid to the court clerk or his
8 or her designee for remittance to the county treasury under § 14-14-1313.

9 (6) All court costs shall be credited to the county administration of
10 justice fund and distributed under § 16-10-307. (7) All program user
11 fees shall be credited to a fund known as the Driving While Intoxicated (DWI)
12 Court Program Fund and appropriated by the quorum court for the benefit and
13 administration of the program. (8) Court orders for costs and

14 fees shall remain an obligation of the offender with court monitoring until
15 fully paid.

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17 16-99-205. Collection of data. (a) A driving while intoxicated
18 (DWI) court program shall collect and provide data on applicants,
19 participants, and the entire program as required by the Division of Driving
20 While Intoxicated (DWI) Court Programs within the Administrative Office of
21 the Courts under the rules promulgated under § 16-98-307. (b) The data
22 collected for evaluation purposes under subsection (a) of this section shall:

23 (1) Include a minimum standard data set developed and specified by the
24 division; and (2) Be maintained in the court files or be otherwise
25 accessible by the courts and the division. (c)(1) As directed by the

26 division, after an individual is discharged either upon completion or
27 termination of a program, the program shall conduct, as much as practical,
28 follow-up contacts with and reviews of former driving while intoxicated court
29 participants for key outcome indicators of alcohol use, recidivism, and
30 employment. (2)(A) The follow-up contacts with and reviews of former

31 participants shall be conducted as frequently and for a period of time as
32 determined by the programs based upon the nature of the drug court program
33 and the nature of the participants. (B) The follow-up contacts

34 with and reviews of former participants are not extensions of the driving
35 while intoxicated (DWI) court's jurisdiction over the participants. (d)

36 For purposes of standardized measurement of success of programs across the

1 state, the Division of Driving While Intoxicated (DWI) Court Programs in
2 consultation with other state agencies and subject to the review of the
3 Driving While Intoxicated (DWI) Court Committee shall adopt an operational
4 definition of terms such as "recidivism", "retention", "relapses",
5 "restarts", "sanctions imposed", and "incentives given" to be used in any
6 evaluation and report of the programs. (e) Each program shall provide to
7 the division all information requested by the division. (f) The
8 division, the Office of Alcohol and Drug Abuse Prevention, and the Arkansas
9 Crime Information Center shall work together to share and make available data
10 to provide a comprehensive data management system for the state's programs.

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

12 (A) Develop a statewide evaluation model to be reviewed by
13 the committee; and

14 (B) Conduct ongoing evaluations of the effectiveness and
15 efficiency of all the programs. (2) A report of the evaluations of
16 the Administrative Office of the Courts shall be submitted to the General
17 Assembly by July 1 of each year.

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19 /s/McLean
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