

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/11/11 H3/18/11

# A Bill

HOUSE BILL 1994

5 By: Representative McLean  
6

## For An Act To Be Entitled

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

### Subtitle

12 TO CREATE A DRIVING WHILE INTOXICATED  
13 COURT PROGRAM.  
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16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

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

21 *Chapter 99 Treatment for Alcohol Abuse*

22 *Subchapter 1 – General Provisions*

23 *[Reserved]*

24 *Subchapter 2 – Arkansas Driving While Intoxicated Court Program Act*

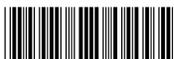
25 *16-99-201. Title.*

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

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29 *16-99-202. Purpose and intent.*

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

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



1 (c) The goals of the driving-while-intoxicated court programs in this  
2 state shall be consistent with the standards adopted by the United States  
3 Department of Justice and recommended by the National Association of Drug  
4 Court Professionals and the National Center for Driving While Intoxicated  
5 (DWI) Courts 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 driving  
25 while intoxicated court effectiveness.

26 (d)(1) Driving while intoxicated (DWI) court programs are specialized  
27 court dockets within the existing structure of the Arkansas court system.

28 (2) The programs offer judicial monitoring of intensive  
29 treatment and strict supervision of addicts in alcohol and alcohol-related  
30 cases.

31 (3) The implementation of a driving while intoxicated (DWI)  
32 court and the creation of a driving while intoxicated (DWI) court docket  
33 shall be at the discretion of the district judge and may be made a part of  
34 the District Court Rules as part of the plan required by Supreme Court  
35 Administrative Order No. 18.

36

1 16-99-203. Driving while intoxicated (DWI) court programs authorized.

2 (a)(1) Each district court and juvenile division of circuit court of  
3 this state may implement a driving while intoxicated (DWI) court program  
4 under this subchapter.

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

8 (b)(1) A program may incorporate services from the Office of Alcohol  
9 and Drug Abuse Prevention of the Department of Human Services, and the  
10 Administrative Office of the Courts.

11 (2) Subject to an appropriation, funding, and position  
12 authorization, both programmatic and administrative, the district court and  
13 juvenile division of circuit court may:

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

16 (B) Provide for alcohol and drug testing for program  
17 participants;

18 (C) Provide for intensive outpatient treatment for program  
19 participants; and

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

22 (3) Subject to appropriation, funding, and position  
23 authorization, both programmatic and administrative, the Department of Human  
24 Services may:

25 (A) Provide positions for persons to serve as drug and  
26 alcohol counselors and administrative assistants in delinquency cases,  
27 dependency-neglect cases, and family in need of services cases;

28 (B) Provide for alcohol testing or drug testing, or both,  
29 for program participants in delinquency cases, dependency-neglect cases, and  
30 family in need of services cases;

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

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

1 (E) Certify and license treatment providers and treatment  
2 facilities that serve program participants;

3 (F) Provide and oversee residential beds for programs;

4 (G) Oversee catchment area facilities for programs;

5 (H) Act as a liaison between the courts and program  
6 participants; and

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

9 (4) Subject to appropriation, funding, and position  
10 authorization, both programmatic and administrative, the Administrative  
11 Office of the Courts may:

12 (A) Provide state-level coordination and support for  
13 driving while intoxicated (DWI) court judges and their programs;

14 (B) Administer funds for the maintenance and operation of  
15 local programs;.

16 (C) Provide training and education to driving while  
17 intoxicated (DWI) court judges and other professionals involved in the  
18 programs; and

19 (D) Operate as a liaison between driving while intoxicated  
20 (DWI) court judges and other state-level agencies providing services to  
21 programs.

22 (c)(1) A program shall not be available to a defendant who:

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

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

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

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

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

33 (3) This subchapter does not require a driving while intoxicated  
34 (DWI) court judge to consider or accept every offender with a treatable  
35 condition or addiction, regardless of the fact that the controlling offense  
36 is eligible for consideration in the program.

1 (4) A defendant who is denied entry to a program shall be  
2 prosecuted as provided by law.

3 (d)(1) Programs may require a separate judicial processing system  
4 differing in practice and design from the traditional adversarial criminal  
5 prosecution and trial systems.

6 (2) A driving while intoxicated (DWI) court team shall be  
7 designated by a district judge or a judge from the juvenile division of  
8 circuit court assigned to manage the driving while intoxicated court docket  
9 and may include:

10 (A) A district judge;

11 (B) A prosecuting attorney;

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

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

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

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

16 representatives; and

17 (G) Any other individual or individuals determined  
18 necessary by the driving while intoxicated court judge.

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

21 (1) Department of Human Services;

22 (2) Department of Education;

23 (3) Department of Career Education;

24 (4) Department of Community Correction; and

25 (5) Administrative Office of the Courts.

26 (f)(1) A Division of Driving While Intoxicated (DWI) Court Programs is  
27 created within the Administrative Office of the Courts.

28 (2) The position of driving while intoxicated (DWI) court  
29 coordinator and duties associated with the position shall be included within  
30 the division, and the court coordinator may:

31 (A) Provide  
32 assistance, counsel, and advice to the Arkansas District Judges Council DWI  
33 Courts Committee;

34 (B) Serve as a coordinator among driving while intoxicated  
35 (DWI) court judges, the Department of Community Correction, the Office of  
36 Alcohol and Drug Abuse Prevention, private treatment provider  
representatives, and public health advocates;

1 (C) Establish, manage, and maintain a uniform statewide  
2 information system to track information and data on driving while intoxicated  
3 court program participants, to be reviewed by the committee;

4 (D) Train and educate driving while intoxicated (DWI)  
5 court judges and driving while intoxicated (DWI) court staff in those  
6 judicial districts maintaining a program;

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

9 (F) Oversee the disbursement of funds appropriated to the  
10 Administrative Office of the Courts for the maintenance and operation of  
11 local programs based on a formula developed by the Administrative Office of  
12 the Courts and reviewed by the committee; and

13 (G) Develop guidelines to be reviewed by the committee to  
14 serve as a framework for developing effective local programs and to provide a  
15 structure for conducting research and evaluation for program accountability.

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17 16-99-204. Cost and fees.

18 (a) The driving while intoxicated (DWI) court judge may order the  
19 offender to pay:

20 (1) Court costs as provided in § 16-10-305;

21 (2) Treatment costs;

22 (3) Drug testing costs;

23 (4) A program user fee; and

24 (5) Necessary supervision fees, including any applicable  
25 residential treatment fees.

26 (b)(1) The driving while intoxicated (DWI) court judge shall establish  
27 a schedule for the payment of costs and fees.

28 (2) The cost for treatment, drug testing, and supervision shall  
29 be set by the treatment and supervision providers respectively and made part  
30 of the order of the driving while intoxicated (DWI) court judge for payment.

31 (3) Program user fees shall be set by the driving while  
32 intoxicated (DWI) court judge.

33 (4) Treatment, testing, and supervision costs or fees may be  
34 paid directly or indirectly to the respective providers.

35 (5)(A) All court costs and program user fees assessed by the  
36 driving while intoxicated (DWI) court judge shall be paid to the court clerk

1 or his or her designee for remittance to the county treasury under § 14-14-  
2 1313.

3 (6) All court costs shall be credited to the county  
4 administration of justice fund and distributed under § 16-10-307.

5 (7) All program user fees shall be credited to a fund known as  
6 the Driving While Intoxicated (DWI) Court Program Fund and appropriated by  
7 the quorum court for the benefit and administration of the program.

8 (8) Court orders for costs and fees shall remain an obligation  
9 of the offender with court monitoring until fully paid.

10  
11 16-99-205. Collection of data.

12 (a) A driving while intoxicated (DWI) court program shall collect and  
13 provide data on applicants, participants, and the entire program as required  
14 by the Division of Driving While Intoxicated (DWI) Court Programs within the  
15 Administrative Office of the Courts under the rules promulgated under § 16-  
16 98-307.

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

19 (1) Include a minimum standard data set developed and specified  
20 by the division; and

21 (2) Be maintained in the court files or be otherwise accessible  
22 by the courts and the division.

23 (c)(1) As directed by the division, after an individual is discharged  
24 either upon completion or termination of a program, the program shall  
25 conduct, as much as practical, follow-up contacts with and reviews of former  
26 driving while intoxicated court participants for key outcome indicators of  
27 alcohol use, recidivism, and employment.

28 (2)(A) The follow-up contacts with and reviews of former  
29 participants shall be conducted as frequently and for a period of time as  
30 determined by the programs based upon the nature of the driving while  
31 intoxicated court program and the nature of the participants.

32 (B) The follow-up contacts with and reviews of former  
33 participants are not extensions of the driving while intoxicated (DWI)  
34 court's jurisdiction over the participants.

35 (d) For purposes of standardized measurement of success of programs  
36 across the state, the Division of Driving While Intoxicated (DWI) Court

1 Programs in consultation with other state agencies and subject to the review  
2 of the District Judges Council DWI Court Committee shall adopt an operational  
3 definition of terms such as "recidivism", "retention", "relapses",  
4 "restarts", "sanctions imposed", and "incentives given" to be used in any  
5 evaluation and report of the programs.

6 (e) Each program shall provide to the division all information  
7 requested by the division.

8 (f) The division, the Office of Alcohol and Drug Abuse Prevention, and  
9 the Arkansas Crime Information Center shall work together to share and make  
10 available data to provide a comprehensive data management system for the  
11 state's programs.

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

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

15 (B) Conduct ongoing evaluations of the effectiveness and  
16 efficiency of all the programs.

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

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20 /s/McLean  
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