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4

As Engrossed: H1/19/21

A Bill

HOUSE BILL 1059

5 By: Representative Dalby
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT CONCERNING SPECIALTY COURT PROGRAMS;
10 CONCERNING THE INTRASTATE TRANSFER OF A SPECIALTY
11 COURT PROGRAM PARTICIPANT TO ANOTHER SPECIALTY COURT
12 PROGRAM; TO CREATE A VETERANS TREATMENT SPECIALTY
13 COURT PROGRAM; TO CREATE A DRIVING OR BOATING WHILE
14 INTOXICATED SPECIALTY COURT PROGRAM; AND FOR OTHER
15 PURPOSES.
16
17

Subtitle

18 CONCERNING THE INTRASTATE TRANSFER OF A
19 SPECIALTY COURT PROGRAM PARTICIPANT TO
20 ANOTHER SPECIALTY COURT PROGRAM; TO
21 CREATE A VETERANS TREATMENT SPECIALTY
22 COURT PROGRAM; AND TO CREATE A DWI/BWI
23 SPECIALTY COURT PROGRAM.
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 16-10-139 is amended to read as follows:

30 16-10-139. Specialty court program evaluation and approval – Transfer –
31 Definition.

32 (a) As used in this section, “specialty court program” means one (1)
33 of the following:

34 (1) A pre-adjudication program under § 5-4-901 et seq.;

35 (2) An approved drug court program under the Arkansas Drug Court
36 Act, § 16-98-301 et seq.;



1 (3) The Swift and Certain Accountability on Probation Pilot
2 Program under § 16-93-1701 et seq.; and

3 (4) Any other specialty court program that has been approved by
4 the Supreme Court, including without limitation specialty court programs
5 known as:

6 (A) A ~~DWI~~ DWI/BWI specialty court program;

7 (B) A mental health specialty court program;

8 (C) A ~~veteran's~~ veterans treatment specialty court
9 program;

10 (D) A juvenile drug court;

11 (E) A "HOPE" court; and

12 (F) A ~~"smarter sentencing" court; and~~ domestic violence
13 specialty court program

14 ~~(G) A mental health crisis intervention center.~~

15 (b) A specialty court program operated by a circuit court or district
16 court must be approved by the Supreme Court in the administrative plan
17 submitted under Supreme Court Administrative Order ~~No.~~ Nos. 14 and 18.

18 (c)(1) The Specialty Court Program Advisory Committee shall evaluate
19 and make findings with respect to all specialty court programs operated by a
20 circuit court or district court in this state and refer the findings to the
21 Supreme Court.

22 (2) An evaluation under this section shall reflect nationally
23 recognized and peer-reviewed standards for each particular type of specialty
24 court program.

25 (3) The Specialty Court Program Advisory Committee shall also:

26 (A) Establish, implement, and operate a uniform specialty
27 court program evaluation process to ensure specialty court program resources
28 are uniformly directed to high-risk, ~~and medium-risk~~ high-need offenders and
29 that specialty court programs provide effective and proven practices that
30 reduce recidivism, as well as other factors such as substance dependency,
31 among participants;

32 (B) Establish an evaluation process that ensures that any
33 new and existing specialty court program that is a drug court program meets
34 standards for drug court program operation under § 16-98-302(b); and

35 (C) Promulgate rules to be approved by the Supreme Court
36 to carry out the evaluation process under this section.

1 (d) A specialty court program shall be evaluated under the following
2 schedule:

3 (1) A specialty court program established on or after April 1,
4 2015, shall be evaluated after its second year of funded operation;

5 (2) A specialty court program in existence on April 1, 2015,
6 shall be evaluated under the requirements of this section prior to expending
7 resources budgeted for fiscal year 2017; and

8 (3) A specialty court program shall be reevaluated every two (2)
9 years after the initial evaluation.

10 (e)(1)(A) On motion of a specialty court program participant, a
11 specialty court judge who presides over a specialty court program may by
12 written order transfer responsibility for supervision and specialty court
13 program enforcement of the specialty court program participant's case to
14 another specialty court judge with the consent of the other specialty court
15 judge.

16 (B) The specialty court program participant shall comply
17 with the policies and procedures for the specialty court program to which the
18 specialty court program participant's case is transferred.

19 (C) The specialty court judge to whom the specialty court
20 program participant's case is transferred may impose sanctions on the
21 specialty court program participant, including without limitation the
22 imposition of a period of incarceration and the requirement of inpatient
23 treatment under the written policies and procedures for the specialty court
24 program to which the specialty court program participant's case has been
25 transferred.

26 (2)(A) If the specialty court judge to whom the specialty court
27 program participant's case has been transferred determines that the specialty
28 court program participant has successfully completed the specialty court
29 program, the specialty court judge shall notify the transferring specialty
30 court judge and request that the appropriate orders be entered in the
31 specialty court program participant's case.

32 (B)(i) If after a specialty court program participant's case
33 is transferred, the specialty court team recommends that the specialty court
34 program participant be removed from the specialty court program, the
35 specialty court judge shall enter an order returning the specialty court
36 program participant's case to the transferring specialty court program.

1 (ii) Upon return of the specialty court program
2 participant's case to the transferring specialty court program, the specialty
3 court judge shall determine an appropriate disposition of the matter.

4 (f)(1)(A) If a specialty court program participant's case is
5 transferred from a district court, all assessed fines, penalties, court
6 costs, and fees other than those described under subdivision (f)(2) of this
7 section shall be paid to the transferring district court, notwithstanding the
8 provisions of § 16-10-141.

9 (B) The funds described under subdivision (f)(1)(A) of
10 this section shall be disbursed as required under § 16-17-707.

11 (2) In accordance with § 16-10-141(b)(2)-(7), the district court
12 to which the case is transferred may assess and collect:

13 (A) Treatment costs;

14 (B) Drug testing costs;

15 (C) A local specialty court program user fee;

16 (D) Necessary supervision fees, including any applicable
17 residential treatment fees;

18 (E) Global positioning system monitoring costs; and

19 (F) Continuous alcohol monitoring fees.

20 (g)(1) If a specialty court program participant's case is transferred
21 from a circuit court, all assessed fines, penalties, court costs, and fees
22 other than those under subdivision (g)(2) of this section shall be paid to
23 the transferring circuit court, notwithstanding the provisions of § 16-98-
24 304.

25 (2) In accordance with §§ 5-4-907, 16-10-701, 16-98-304, 16-100-
26 209, and 16-101-104, the circuit court to which the specialty court program
27 participant's case is transferred may assess and collect:

28 (A) Treatment costs;

29 (B) Drug testing costs;

30 (C) A local specialty court program user fee;

31 (D) Necessary supervision fees, including any applicable
32 residential treatment fees;

33 (E) A fee determined or authorized under § 12-27-
34 125(b)(17)(B) or § 16-93-104(a)(1) that is to be paid to the Division of
35 Community Correction;

36 (F) Global positioning system monitoring costs;

1 (G) Continuous alcohol monitoring fees;

2 (H) Tuition and other educational fees for a vocational
3 school, technical school, community college, or two-year or four-year public
4 university that is part of the pre-adjudication probation program in which
5 the specialty court program participant is participating; and

6 (I) A specialty court program public defender user fee.

7
8 SECTION 2. Arkansas Code § 16-98-306(h), concerning the requirements
9 of the Specialty Court Program Advisory Committee, is amended to read as
10 follows:

11 (h) The Specialty Court Program Advisory Committee shall:

12 (1) Submit a report by July 1 of each year summarizing the data
13 collected and outcomes achieved by all approved ~~drug~~ specialty courts; and

14 (2) Contract with a third-party evaluator every ~~three (3)~~ five
15 (5) years to conduct an evaluation on the effectiveness of the ~~drug~~ specialty
16 court program in complying with the key components of § 16-98-302(b).

17
18 SECTION 3. Arkansas Code Title 16, is amended to add a new chapter
19 read as follows:

20 CHAPTER 101

21 VETERANS TREATMENT SPECIALTY COURT PROGRAMS

22
23 16-101-101. Specialty court authorized – Program authorized –
24 Evaluation – Restriction on services and treatment.

25 (a) A circuit court may establish a veterans treatment specialty court
26 program, subject to approval by the Supreme Court in the administrative plan
27 submitted under Supreme Court Administrative Order No. 14.

28 (b) A veterans treatment specialty court is a specialized court within
29 the existing structure of the court system.

30 (c) The goals of the veterans treatment specialty court program shall
31 be consistent with standards adopted by the United States Department of
32 Justice and the National Association of Drug Court Professionals, as they
33 existed on January 1, 2021.

34 (d) A veterans treatment specialty court program is subject to
35 evaluation by the Specialty Court Program Advisory Committee under § 16-10-
36 139.

1 (e)(1) A veterans treatment specialty court may not order any
2 services, including mental health or substance use disorder treatment under
3 this chapter unless:

4 (A) An administrative and programmatic appropriation has
5 been made for the services;

6 (B) Administrative and programmatic funding is available
7 for the services; and

8 (C) Administrative and programmatic positions have been
9 authorized for the services.

10 (2) If the requirements of subdivision (e)(1) of this section
11 are not met, a veterans treatment specialty court may still order services if
12 the provider waives payment or if the specialty court participant has private
13 insurance that will pay for the services.

14
15 16-101-102. Administration of veterans treatment specialty court
16 program.

17 (a) A veterans treatment specialty court program may require a
18 separate judicial processing system differing in practice and design from the
19 traditional adversarial criminal prosecution and trial system.

20 (b) Each veterans treatment specialty court shall develop a policy and
21 procedure manual for the veterans treatment specialty court program.

22 (c) The veterans treatment specialty court program shall offer
23 judicial monitoring with intensive substance use disorder treatment, mental
24 health treatment, and strict supervision of high-risk, high-need defendants
25 as determined by a validated risk-needs assessment tool.

26 (d)(1) A veterans treatment specialty court program team shall be
27 designated by the veterans treatment specialty court judge to manage the
28 veterans treatment specialty court docket.

29 (2) Veterans treatment specialty court team members shall
30 include:

31 (A) A circuit judge or state district court judge;

32 (B) A prosecuting attorney;

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

34 (D) One (1) or more probation officers employed by the
35 Division of Community Correction;

36 (E) One (1) or more treatment providers with experience in

1 the fields of mental health and substance use disorder treatment;

2 (F) One (1) or more local law enforcement agency
3 representatives;

4 (G) One (1) or more veterans justice outreach specialists;
5 and

6 (H) Any other individuals determined necessary by the
7 veterans treatment specialty court judge.

8 (e) A veterans treatment specialty court program may be pre-
9 adjudication or post-adjudication.

10 (f) If the veterans treatment specialty court utilizes a case
11 management system that allows for the collection and processing of data, the
12 veterans treatment specialty court shall collect and provide monthly data on
13 veterans treatment specialty court program applicants and all participants as
14 required by the Specialty Court Program Advisory Committee in accordance with
15 rules promulgated under § 10-3-2901.

16
17 16-101-103. Eligibility.

18 A person is eligible for participation in a veterans treatment
19 specialty court program if the person:

20 (1) Has a substance use disorder or mental health disorder;

21 (2) Is eighteen (18) years of age or older;

22 (3) Is a veteran or a service member of the United States Armed
23 Forces or National Guard; and

24 (4) Agrees to comply with the policies and procedures developed
25 by the veterans treatment specialty court.

26
27 16-101-104. Costs and fees.

28 (a) The veterans treatment specialty court judge presiding over a
29 veterans treatment specialty court program that has been approved by the
30 Supreme Court may order a veterans treatment specialty court program
31 participant to pay:

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

33 (2) Treatment costs;

34 (3) Drug testing costs;

35 (4) A veterans treatment specialty court program user fee;

36 (5) Necessary supervision fees, including any applicable

1 residential treatment fees;

2 (6) A fee determined or authorized under § 12-27-125(b)(17)(B)
3 or § 16-93-104(a)(1) that is to be paid to the Division of Community
4 Correction;

5 (7) Global Positioning System monitoring costs; and

6 (8) Continuous alcohol monitoring fees.

7 (b)(1) The veterans treatment specialty court judge shall establish a
8 schedule for the payment of veterans treatment specialty court costs and
9 fees.

10 (2) The cost for treatment, drug testing, continuous alcohol
11 monitoring if ordered, and supervision shall be set by the treatment and
12 supervision providers and made part of the order of the veterans treatment
13 specialty court judge for payment.

14 (3) Veterans treatment specialty court program user fees shall
15 be set by the veterans treatment specialty court judge.

16 (4) The costs for treatment, drug testing, continuous alcohol
17 monitoring if ordered, and supervision shall be paid to the respective
18 providers.

19 (5)(A) All court costs and veterans treatment specialty court
20 program user fees assessed by the veterans treatment specialty court judge
21 shall be paid to the court clerk for remittance to the county treasury under
22 § 14-14-1313.

23 (B) All installment payments shall initially be deemed to
24 be collection of court costs under § 16-10-305 until the court costs have
25 been collected in full with any remaining payments representing collections
26 of other fees and costs as authorized in this section and shall be credited
27 to the county administration of justice fund and distributed under § 16-10-
28 307.

29 (C) Veteran treatment specialty court program user fees
30 shall be credited to a fund known as the “veterans treatment specialty court
31 program fund” and appropriated by the quorum court for the benefit and
32 administration of the veterans treatment specialty court program.

33 (D) Court orders for costs and fees shall remain an
34 obligation of the veterans treatment specialty court program participant and
35 payment shall be monitored by the veterans treatment specialty court until
36 fully made.

1 (E) Expenditures from the veteran treatment specialty
2 court program fund shall require the approval of the veteran treatment
3 specialty court and shall be authorized and paid by law concerning the
4 appropriation and payment of county or municipal expenditures by the
5 governing body or, if applicable, governing bodies, that contribute to the
6 expenses of the circuit court.

7 (F)(i) Expenditures from the veterans treatment specialty
8 court program fund shall be used solely for the support, benefit, and
9 administration of the veterans treatment specialty court program.

10 (ii) Expenditures may be made for indirect expenses
11 related to the veterans treatment specialty court program, including training
12 and travel expenses, veterans treatment specialty court program user
13 incentives, graduation costs, and supplies.

14 (6) Court orders for costs and fees shall remain an obligation
15 of the veterans treatment specialty court participant and payment shall be
16 monitored by the veterans treatment specialty court until fully made.

17 (c) A grant awarded to a veterans treatment specialty court program,
18 as well as all memorials, honorariums, and other monetary gifts to the
19 veterans treatment specialty court program shall be deposited into the
20 veterans treatment specialty court program fund.

21 (d) A fee or costs under this section may be waived in whole or in
22 part if the veterans treatment specialty court finds that the veterans
23 treatment specialty court program participant subject to paying the fee or
24 costs is indigent.

25
26 16-101-105. Presiding judge.

27 (a) If a judicial district chooses to create and administer a veterans
28 treatment specialty court, subject to Arkansas Constitution, Amendment 80,
29 the administrative judge of the judicial district shall designate one (1) or
30 more circuit judges to be the veterans treatment specialty court judges and
31 to administer the veterans treatment specialty court program.

32 (b) If a county is in a judicial district that does not have a circuit
33 judge who is able to administer the veterans treatment specialty court
34 program on a consistent basis, the administrative plan for the judicial
35 circuit required by Supreme Court Administrative Order No. 14 and the
36 administrative plan for the district court pursuant to Supreme Court

1 Administrative Order No. 18 may designate a state district court judge to be
2 a veterans treatment court specialty court judge and to administer the
3 veterans treatment specialty court program.

4
5 16-101-106. Completion of program – Dismissal of case – Sealing of
6 record.

7 (a) A veterans treatment specialty court judge, on his or her own
8 motion or upon request from a veterans treatment specialty court program
9 participant, may order dismissal of a veterans treatment specialty court
10 program participant's case if:

11 (1) The veterans treatment specialty court program participant
12 has successfully completed the veterans treatment specialty court program, as
13 determined by the veterans treatment specialty court judge;

14 (2) The veterans treatment specialty court judge has received a
15 recommendation from the prosecuting attorney for dismissal of the veterans
16 treatment specialty court program participant's case and the sealing of the
17 record; and

18 (3) The veterans treatment specialty court judge, after
19 considering the veterans treatment specialty court program participant's past
20 criminal history, determines that the dismissal of the veterans treatment
21 specialty court program participant's case and the sealing of the record are
22 appropriate.

23 (b)(1) Except as provided in subdivision (b)(2) of this section, if
24 the veterans treatment specialty court program participant has pleaded guilty
25 or nolo contendere to or has been found guilty of an offense falling within a
26 target group under § 16-93-1202(10)(A)(i) in another circuit court in this
27 state, the veterans treatment specialty court judge may order dismissal of
28 the veterans treatment specialty court program participant's case and the
29 sealing of the record for an offense falling within the target group with the
30 written concurrence of the other circuit court.

31 (2) The following offenses are not eligible for sealing under
32 subdivision (b)(1) of this section:

33 (A) Residential burglary, § 5-39-201(a);

34 (B) Commercial burglary, § 5-39-201(b);

35 (C) Breaking or entering, § 5-39-202; and

36 (D) Driving or boating while intoxicated, § 5-65-103.

1 (c) Unless otherwise ordered by the veterans treatment specialty court
2 judge, sealing under this subsection shall be as described in the
3 Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.
4

5 SECTION 4. Arkansas Code Title 16, is amended to add a new chapter to
6 read as follows:

7 CHAPTER 102

8 DWI/BWI SPECIALTY COURT PROGRAMS

9
10 16-102-101. Specialty court authorized – Program authorized –
11 Evaluation – Restriction on services and treatment.

12 (a) A district court may establish a DWI/BWI specialty court program
13 for persons convicted of driving or boating while intoxicated, § 5-65-103,
14 subject to approval by the Supreme Court in the administrative plan submitted
15 under Supreme Court Administrative Order No. 18.

16 (b) A DWI/BWI specialty court is a specialized court within the
17 existing structure of the court system.

18 (c) The goals of the DWI/BWI specialty court program shall be
19 consistent with standards adopted by the United States Department of Justice
20 and recommended by the National Center for DWI Courts, as they existed on
21 January 1, 2021.

22 (d) A DWI/BWI specialty court program authorized under this chapter is
23 subject to evaluation by the Specialty Court Program Advisory Committee under
24 § 16-10-139.

25 (e)(1) A DWI/BWI specialty court program may not order any services,
26 including mental health or substance use disorder treatment under this
27 chapter unless:

28 (A) An administrative and programmatic appropriation has
29 been made for the services;

30 (B) Administrative and programmatic funding is available
31 for the services; and

32 (C) Administrative and programmatic positions have been
33 authorized for the services.

34 (2) If the requirements of subdivision (e)(1) of this section
35 are not met, a DWI/BWI specialty court may still order the services if the
36 provider waives payment or if the DWI/BWI specialty court program participant

1 has private insurance that will pay for the services.

2
3 16-102-102. Administration.

4 (a) A DWI/BWI specialty court program may require a separate judicial
5 processing system differing in practice and design from the traditional
6 adversarial criminal prosecution and trial system.

7 (b) Each DWI/BWI specialty court shall develop a policy and procedure
8 manual for the DWI/BWI specialty court program.

9 (c) The DWI/BWI specialty court program shall offer judicial
10 monitoring with intensive substance use disorder treatment and strict
11 supervision of high-risk, high-need defendants, as determined by a validated
12 risk-needs assessment tool, in cases of driving or boating while intoxicated,
13 § 5-65-103.

14 (d)(1) The DWI/BWI specialty court shall have jurisdiction of a
15 DWI/BWI specialty court program participant for sixteen (16) months from the
16 date of sentencing to complete the DWI/BWI specialty court program in
17 conformance with the standards adopted by the United States Department of
18 Justice and recommended by the National Center for DWI Courts, as they
19 existed on January 1, 2021.

20 (2) In order for the DWI/BWI specialty court program participant
21 to complete the DWI/BWI specialty court program and upon finding of good
22 cause, the DWI/BWI specialty court may extend jurisdiction of the DWI/BWI
23 specialty court program participant for an additional two (2) months.

24 (e)(1) A DWI/BWI specialty court program team shall be designated by
25 the DWI/BWI specialty court judge to manage the DWI/BWI specialty court
26 program docket.

27 (2) DWI/BWI specialty court program team members shall include:

28 (i) A district judge;

29 (ii) A prosecuting attorney or city attorney;

30 (iii) A public defender or private defense attorney;

31 (iv) One (1) or more probation officers;

32 (v) One (1) or more treatment providers with experience in
33 the fields of mental health or substance use disorders, or both;

34 (vi) One (1) or more local law enforcement agency
35 representatives; and

36 (vii) Any other individuals determined necessary by the

1 DWI/BWI specialty court program judge.

2 (f) A person is eligible for participation in a DWI/BWI specialty
3 court program if:

4 (1) The person has a substance use disorder;

5 (2) The person is eighteen (18) years of age or older;

6 (3) The person has pled guilty or nolo contendere or has been
7 found guilty of the offense of driving or boating while intoxicated, § 5-65-
8 103, and is awaiting sentencing for the offense; and

9 (4) The person agrees to comply with the policies and procedures
10 developed by the DWI/BWI specialty court program.

11 (g) Subject to § 5-65-108, probation and any other services ordered by
12 the DWI/BWI specialty court shall be ordered after the person pleads guilty
13 or nolo contendere to violating driving or boating while intoxicated, § 5-65-
14 103.

15 (h) A DWI/BWI specialty court shall not reduce or dismiss a charge or
16 conviction of driving or boating while intoxicated, § 5-65-107.

17 (i) If a DWI/BWI specialty court utilizes a case management system
18 that allows for the collection and processing of data, the DWI/BWI specialty
19 court shall collect and provide monthly data on DWI/BWI specialty court
20 program applicants and all DWI/BWI specialty court program participants as
21 required by the Specialty Court Program Advisory Committee in accordance with
22 rules promulgated under § 10-3-2901.

23
24 SECTION 5. Arkansas Code § 19-5-1144 is amended to read as follows:
25 19-5-1144. Accountability Court Fund.

26 (a) There is created on the books of the Treasurer of State, the
27 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
28 be known as the "Accountability Court Fund".

29 (b) The fund shall consist of:

30 (1) Grants made by any person or federal government agency; and

31 (2) Any other funds authorized or provided by law.

32 (c) The fund shall be used by the ~~Department of Community Correction~~
33 Administrative Office of the Courts for adult and juvenile specialty court
34 programs as defined under § 16-10-139, based upon a formula to be developed
35 by the Arkansas Judicial Council, Inc., reviewed by the Specialty Court
36 Program Advisory Committee, and approved by the Legislative Council.

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/s/Dalby