

ENGROSSED HOUSE
BILL NO. 2403

By: Young and Nance of the
House

and

Myers of the Senate

(juveniles - Oklahoma Juvenile Drug Court Act -
amending 10 O.S., Sections 7303-4.6 and 7303-5.5 -
fees - amending 63 O.S., Section 2-503.2 -
violations - codification -
effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7303-5.5a of Title 10, unless
there is created a duplication in numbering, reads as follows:

Sections 1 through 3 of this act shall be known and may be cited
as the "Oklahoma Juvenile Drug Court Act".

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7303-4.6, as
amended by Section 4, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2003,
Section 7303-4.6), is amended to read as follows:

Section 7303-4.6 A. If the court finds that the allegations of
a petition alleging a child to be delinquent or in need of
supervision are supported by the evidence, the court shall sustain
the petition, and shall make an order of adjudication setting forth
whether the child is delinquent or in need of supervision and shall
adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings or
proceedings to determine if a child is in need of supervision for
one hundred eighty (180) days if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or that if committed by an adult would be grand larceny of property valued at One Hundred Dollars (\$100.00) or less;

2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;

3. Has not been previously adjudicated a delinquent; and

4. Presents to the court an oral or written request to attend a Teen Court program, ~~or~~ graduated sanctions program, or juvenile drug court.

C. The Teen Court program, ~~or~~ graduated sanctions program, or juvenile drug court must be approved by the court.

D. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program, ~~or~~ graduated sanctions program, or juvenile drug court has been successfully completed.

E. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of the cost shall be paid by the court clerk to the court fund.

F. A court may defer delinquency proceedings or proceedings to determine if a child is in need of supervision for one hundred eighty (180) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with

prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

G. A court may defer delinquency proceedings for one hundred eighty (180) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

H. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contact with the Department of Juvenile Justice, by organizations designated as youth services agencies ~~in accordance with Section 7302-3.6 of this title~~ by law;

2. "Graduated sanctions program" means a program administered by the Office of Juvenile Affairs or as otherwise approved by the court as defined in Section 7301-1.3 of this title;

3. "Juvenile drug court", "juvenile drug court program" or "program" means an immediate and highly structured judicial

intervention process for substance abuse treatment of eligible juveniles which expedites the case and requires successful diversion from adjudication or in lieu of placement by the Office of Juvenile Affairs;

4. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 7303-5.3 of this title; and

5. "Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. Such program also may include participation by volunteer adult attorneys. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs;

~~3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 7303-5.3 of this title; and~~

~~4. "Graduated sanctions program" means a program administered by the Office of Juvenile Affairs or as otherwise approved by the Court as defined in Section 7301-1.3 of this title.~~

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7303-5.5, is amended to read as follows:

Section 7303-5.5 A. The court is hereby authorized to establish a juvenile drug court similar to the authority of the Oklahoma Drug Court Act for the purpose of treating alleged and adjudicated juveniles who have a history of substance abuse. The Department of Mental Health and Substance Abuse Services shall assist in the establishment of juvenile drug courts.

B. At the hearing to defer delinquency adjudication proceedings for consideration of a juvenile for a juvenile drug court program, the district judge shall determine whether:

1. The juvenile offender has been admitted to the program within the preceding five (5) years;

2. Any statutory preclusion, other prohibition, or program limitation exists and is applicable to considering the juvenile for the program; and

3. The juvenile's parents, guardian, or custodian will actively support the juvenile's participation in the program.

C. The district attorney may object to the consideration of a juvenile for the juvenile drug court program at the initial hearing.

D. Juveniles can submit a request to the district court for voluntary inpatient treatment as part of their participation in a juvenile drug court program as specified in Sections 5-503 and 5-505 of Title 43A of the Oklahoma Statutes.

E. If the juvenile voluntarily consents to be considered for the juvenile drug court program, and has signed and filed the required form requesting consideration, the court may refer the juvenile for a juvenile drug court investigation as provided in Section 5 of this act, and set a date for a hearing to determine final eligibility for admittance into the program.

F. Upon denial for consideration in the juvenile drug court program at the initial hearing, the case shall proceed in the traditional manner.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7303-5.6 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The juvenile drug court judge shall order the juvenile, or the juvenile's parents, guardian or custodian, to pay court costs, treatment costs, drug testing costs, or program user fees not to exceed Twenty Dollars (\$20.00) per month, and necessary supervision

fees, in accordance with Section 7303-7.6 of Title 10 of the Oklahoma Statutes unless the juvenile is indigent.

B. The juvenile drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the court order for payment. Fees shall be set by the juvenile drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the juvenile drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers.

C. The court clerk shall collect all other costs and fees ordered. The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of adjudication for which the juvenile could have been detained for the offense. No court order for costs and fees shall be limited by any term of supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the juvenile, or the juvenile's parent, guardian or custodian, with court monitoring until fully paid.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7303-5.7 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. When directed by the juvenile drug court judge, the supervising staff for the juvenile drug court program shall make an investigation of the juvenile under consideration to determine whether the juvenile is a person who:

1. Would benefit from the juvenile drug court program; and

2. Is otherwise appropriate for the juvenile drug court program.

B. 1. The juvenile drug court investigation shall be conducted through a standardized screening test, personal interview, and home study. A more comprehensive assessment may take place at the time the juvenile enters the treatment portion of the program and may take place at any time after placement in the juvenile drug court program.

2. The investigation shall determine the original treatment plan which the offender will be required to follow if admitted to the program. Any subsequent assessments or evaluations by the treatment provider, if the juvenile is admitted to the program, may be used to determine modifications needed to the original treatment plan.

3. The investigation shall include, but not be limited to, the following information:

- a. the juvenile's age and physical condition,
- b. employment,
- c. educational background and literacy level,
- d. community and family relations,
- e. prior and current drug and alcohol use,
- f. mental health and medical treatment history, including substance abuse treatment history,
- g. demonstrable motivation,
- h. the willingness of the juvenile's parents, guardian, or custodian to actively support the juvenile's participation in the program, and
- i. other mitigating or aggravating factors.

C. 1. The juvenile drug court investigation shall be conducted after the initial hearing and before the hearing for final determination of eligibility for the juvenile drug court program.

2. When a juvenile is determined to be appropriate for admittance to the program, the supervising staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the juvenile and accept the juvenile.

3. Prior to the next scheduled hearing, the investigation findings and recommendations for program placement shall be reported to the juvenile drug court judge, the district attorney, the juvenile, and the defense attorney.

D. 1. The district attorney and the defense attorney for the juvenile shall independently review the findings and recommendations of the juvenile drug court investigation report.

2. For a juvenile to remain eligible for consideration in the program, both the district attorney and the defense attorney must accept the recommended treatment plan and shall negotiate the terms of the written plea agreement with all rehabilitation provisions specified before the scheduled hearing date for determining final eligibility.

3. Upon failure of the district attorney and defense attorney to negotiate the written or deferred adjudication, the case shall be withdrawn from the juvenile drug court program and processed in the traditional manner.

4. The rehabilitation provisions of the written or deferred adjudication shall emphasize reparation to the victim, community, and state.

E. The hearing to determine final eligibility shall be set not less than three (3) work days nor more than seven (7) work days from the date of the initial hearing for consideration, unless extended by the court.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7303-5.8 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The juvenile drug court judge shall conduct a hearing as required by Section 5 of the Oklahoma Surrogate Parentage Act to determine final eligibility of the juvenile for the juvenile drug court program by considering:

1. Whether the juvenile has voluntarily consented to the program requirements;

2. The findings and recommendations of the juvenile drug court investigation authorized by Section 5 of the Oklahoma Surrogate Parentage Act;

3. Whether there is a written or deferred adjudication agreement, and if so, whether the terms and conditions of the written negotiated or deferred adjudication among the district attorney, the defense attorney, and the juvenile are appropriate and consistent with the penalty provisions and conditions of other similar cases;

4. Whether there is an appropriate treatment program available to the juvenile and whether there is a recommended treatment plan; and

5. Any information relevant to determining eligibility. A juvenile shall not be denied admittance to any juvenile drug court program based upon an inability to pay court costs or other costs or fees.

B. At the hearing to determine final eligibility of the juvenile for the juvenile drug court program, the judge shall not grant a juvenile admission to the program if:

1. The required treatment plan and adjudication agreement have not been completed;

2. The program funding or availability of treatment has been exhausted;

3. The treatment program is unwilling to accept the juvenile;

4. The juvenile was ineligible for consideration because of the nature of the offense at the time of arrest, and the charge was modified to meet the eligibility criteria of the program; or

5. The juvenile is inappropriate for admission to the program, in the discretion of the judge.

C. The judge shall require that the parents, guardian, or custodian of the juvenile demonstrate that they actively support the juvenile's participation in the program.

D. 1. At the final eligibility hearing, if evidence is presented that was not discovered by the juvenile drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the written or deferred adjudication agreement previously negotiated.

2. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional rehabilitation, or to require further negotiations of the written or deferred adjudication or rehabilitation provisions. The decision of the judge for or against eligibility and admission shall be final.

E. When the court accepts the treatment plan with the written or deferred adjudication agreement, the juvenile, upon entering the plea as agreed by the parties, shall be ordered and escorted immediately into the program. The juvenile must have voluntarily signed the necessary court documents before the juvenile may be admitted to treatment. The court documents shall include:

1. Waiver of the right of the juvenile to a speedy trial;

2. A written or deferred adjudication agreement which sets forth the offense charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program. Further adjudication shall be prohibited when the offender successfully completes the treatment program;

3. A written treatment plan which is subject to modification at any time during the program; and

4. A written performance contract requiring the juvenile to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court.

F. If admission into the juvenile drug court program is denied, the case shall be returned to the traditional docket and shall proceed as provided for any other juvenile case.

G. At the time a juvenile is admitted to the juvenile drug court program, any bail or undertaking on behalf of the juvenile shall be exonerated.

H. 1. The period of time during which a juvenile may participate in the active treatment portion of the juvenile drug court program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following the treatment portion of the program.

2. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-503.2, as last amended by Section 3, Chapter 437, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-503.2), is amended to read as follows:

Section 2-503.2 A. 1. Every person convicted of a violation of the Uniform Controlled Dangerous Substances Act or the Trafficking In Illegal Drugs Act, Section 2-414 et seq. of this title, shall be assessed for each offense a sum of not less than One

Hundred Dollars (\$100.00) nor more than Three Thousand Dollars (\$3,000.00).

2. The assessment shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this section shall not be subject to any order of suspension. The court shall order either a lump sum payment or establish a payment schedule.

3. Failure of the offender to comply with the payment schedule shall be considered contempt of court.

4. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

B. The assessment provided for in subsection A of this section shall be collected by the court clerk as provided for collection of fines and costs. When assessment payments are collected by the court clerk pursuant to court order, the funds shall be forwarded to the Department of Mental Health and Substance Abuse Services for deposit into its Drug Abuse Education and Treatment Revolving Fund created by subsection C of Section 2-503.2 of this title.

C. 1. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Drug Abuse Education and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of assessments collected pursuant to this section, court-ordered assessments collected pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes and Section 2-401 of this title, the Oklahoma Drug Court Act, the Oklahoma Juvenile Drug Court Act, grants, gifts and other

money accruing to the benefit of the fund ~~and the Oklahoma Drug Court Act.~~

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for treatment and drug testing of indigent substance abusing offenders pursuant to the Oklahoma Drug Court Act and Oklahoma Juvenile Drug Court Act, for substance abuse prevention, drug courts, and continuing education.

3. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

4. Monies expended from this fund shall not supplant other local, state, or federal funds.

SECTION 8. This act shall become effective January 1, 2005.

Passed the House of Representatives the 11th day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate