

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1548 By: Thompson of the Senate
3 and
4 Hilbert of the House
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7 An Act relating to criminal procedure; amending 22
8 O.S. 2021, Sections 471.1, 471.2, 471.3, 471.4,
9 471.6, 471.8, and 471.10, which relate to the
10 Oklahoma Drug Court Act; modifying entity authorized
11 to establish drug court program; establishing
12 requirements for administrative contracts for
13 maintaining drug court programs; requiring
14 designation of drug court coordinator; providing for
15 funding for drug court programs; providing for
16 administrative support and oversight of drug court
17 programs; authorizing establishment of juvenile drug
18 courts; modifying participants in drug court team;
19 modifying eligibility requirements for drug court
20 programs; modifying procedures for review of offender
21 for drug court program; modifying procedures for
22 offender request for consideration for drug court
23 program; modifying requirements for initial hearing
24 for consideration for drug court program; requiring
development of written eligibility criteria by drug
court team; establishing requirements for certain
criteria; modifying requirements for drug court
investigation report; requiring notification to
victim under certain circumstances; requiring drug
court coordinator to maintain record of presumptively
eligible offenders not placed in drug court;
modifying definition; modifying prohibitions for
admission to program; modifying requirements for
utilization of programs as disciplinary sanction;
modifying authority for implementation of Oklahoma
Drug Court Act; updating statutory references; and
providing an effective date.

1 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
and insert:

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"An Act relating to criminal procedure; amending 22 O.S. 2021, Sections 471.1, 471.2, 471.3, 471.4, 471.6, 471.8, and 471.10, which relate to the Oklahoma Drug Court Act; removing certain drug court program restriction; authorizing establishment of juvenile drug courts; modifying participants in drug court team; modifying eligibility requirements for drug court programs; modifying procedures for review of offender for drug court program; modifying procedures for offender request for consideration for drug court program; modifying requirements for initial hearing for consideration for drug court program; requiring development of written eligibility criteria by drug court team; establishing requirements for certain criteria; modifying requirements for drug court investigation report; requiring notification to victim under certain circumstances; requiring drug court coordinator to maintain record of presumptively eligible offenders not placed in drug court; modifying definition; modifying prohibitions for admission to program; modifying requirements for utilization of programs as disciplinary sanction; modifying authority for implementation of Oklahoma Drug Court Act; and updating statutory references.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 471.1, is amended to read as follows:

Section 471.1 A. For purposes of the Oklahoma Drug Court Act, "drug court", "drug court program" or "program" means an immediate and highly structured judicial intervention process for substance

1 abuse treatment of eligible offenders which expedites the criminal
2 case and requires successful completion of the plea agreement.

3 B. Each district court of this state is authorized to establish
4 a drug court program pursuant to the provisions of the Oklahoma Drug
5 Court Act, subject to availability of funds. ~~Juvenile drug courts~~
6 ~~may be established based upon the provisions of the Oklahoma Drug~~
7 ~~Court Act; provided, however, juveniles shall not be held, processed~~
8 ~~or treated in any manner which violates any provision of Title 10A~~
9 ~~of the Oklahoma Statutes.~~

10 C. ~~Drug court programs shall not apply to any violent criminal~~
11 ~~offense.~~ Eligible offenses may further be restricted by the rules
12 of the specific drug court program. Nothing in the Oklahoma Drug
13 Court Act shall be construed to require a drug court to consider
14 every offender with a treatable condition or addiction even if the
15 controlling offense is eligible for consideration in the program.
16 Traditional prosecution shall be required where an offender is
17 determined not appropriate for the drug court program. Juvenile
18 drug courts may be established based upon the provisions of the
19 Oklahoma Drug Court Act; provided, however, a juvenile shall not be
20 held, processed, or treated in any manner which violates any
21 provision of Title 10A of the Oklahoma Statutes.

22 D. Drug court programs shall require a separate judicial
23 processing system differing in practice and design from the
24 traditional adversarial criminal prosecution and trial systems.

1 Whenever possible, a drug court team shall be designated consisting
2 of a judge to ~~administer~~ preside over the drug court judicial
3 process and hold proceedings where participants are advanced through
4 the program, a district attorney, a defense attorney, a drug court
5 coordinator, and other persons designated by the drug court team who
6 shall have appropriate understanding of the goals of the program and
7 of the appropriate treatment methods for the various conditions.
8 The assignment of any person to the drug court team shall not
9 preclude the assigned person from performing other duties required
10 in the course of their office or employment. The chief judge of the
11 judicial district, or if the district has more than one chief judge
12 then the presiding judge of the Administrative Judicial District,
13 shall designate one or more judges to ~~administer~~ preside over cases
14 assigned to the drug court program. The assignment of any judge to
15 a drug court program or the designation of a drug court docket shall
16 not mandate the assignment of all substance abuse-related cases to
17 the drug court docket or the program; however, nothing in the
18 Oklahoma Drug Court Act shall be construed to preclude the
19 assignment of all criminal cases relating to substance abuse or drug
20 possession as provided by the rules established for the specific
21 drug court program. Judicial immunity shall extend to any duty
22 required by law to be performed by a judge of a drug court.

23 E. When a drug court program is established, the arresting
24 officer shall file the criminal case record for potentially eligible

1 offenders with the district attorney within four (4) days of the
2 arrest. The district attorney shall file an information in the case
3 within twenty-four (24) hours of receipt of the criminal case record
4 when the offender appears eligible for consideration for the
5 program. The information may be amended as necessary when an
6 offender is denied admittance into the drug court program or for
7 other purposes as provided in Section 304 of this title. Any person
8 arrested upon a warrant for his or her arrest shall not be eligible
9 for the drug court program without the approval of the district
10 attorney. Any criminal case which has been filed and processed in
11 the traditional manner shall be cross-referenced to a drug court
12 case file by the court clerk if the case is subsequently assigned to
13 the drug court program. The originating criminal case file shall
14 remain open to public inspection. The judge shall determine what
15 information or pleadings are to be retained in the drug court case
16 file, which shall be closed to public inspection.

17 F. The court may request assistance from the Department of
18 Mental Health and Substance Abuse Services which shall be the
19 primary agency to assist in developing and implementing a drug court
20 program or from any state or local agency in obtaining the necessary
21 treatment services which will assure maximum opportunity for
22 successful treatment, education and rehabilitation for offenders
23 admitted to the program. All participating state and local agencies
24

1 are directed to coordinate with each other and cooperate in
2 assisting the district court in establishing a drug court program.

3 G. Each drug court program shall ~~ensure~~, apply recognized best
4 practices including but not ~~be~~ limited to:

5 1. Strong linkage between participating agencies;

6 2. Access by all participating parties of a case to information
7 on the progress of the offender;

8 3. Vigilant supervision and monitoring procedures;

9 4. Random substance abuse testing;

10 5. Provisions for noncompliance, modification of the treatment
11 plan and revocation proceedings;

12 6. Availability of residential treatment facilities and
13 outpatient services;

14 7. Payment of court costs, treatment costs, supervision fees
15 and program user fees by the offender;

16 8. Methods for measuring application of disciplinary sanctions
17 including provisions for:

18 a. increased supervision,

19 b. urinalysis testing,

20 c. intensive treatment,

21 d. short-term confinement not to exceed five (5) days,

22 e. recycling the offender into the program after a
23 disciplinary action for a minimum violation of the
24 treatment plan,

1 f. reinstating the offender into the program after a
2 disciplinary action for a major violation of the
3 treatment plan, and

4 g. revocation from the program; and

5 9. Methods for measuring performance-based effectiveness of
6 each individual treatment provider's services.

7 H. All drug court programs shall be required to keep reliable
8 data on recidivism, relapse, restarts, sanctions imposed and
9 incentives given.

10 I. All funds received by a drug court, in its capacity as a
11 drug court program, shall be credited to and accounted for in the
12 county treasurer's office in a special cash fund to be known as the
13 "Drug Court Fund". Each drug court fund shall be a continuing fund,
14 not subject to fiscal year limitations, and shall be dedicated to
15 the operation of the drug court as authorized by law. The
16 expenditures of any funds received by a drug court program and
17 deposited with the county treasurer shall be made only upon sworn
18 itemized claims approved by the county clerk, filed with the county
19 treasurer and paid by cash voucher drawn by the county treasurer
20 from the funds.

21 J. Nothing in this section shall prohibit any county from
22 establishing a drug court for misdemeanor offenses. Such
23 misdemeanor drug courts shall follow the rules and regulations of
24 felony drug courts except that the penalty for revocation shall not

1 exceed one (1) year in the county jail or the maximum penalty for
2 the misdemeanor allowed by statute, whichever is less. The
3 Department of Mental Health and Substance Abuse Services shall
4 provide technical assistance to the counties that establish
5 misdemeanor drug courts.

6 SECTION 2. AMENDATORY 22 O.S. 2021, Section 471.2, is
7 amended to read as follows:

8 Section 471.2 A. The opportunity for review of an offender for
9 a drug court program shall occur at any time prior to disposition of
10 the case and sentencing of the offender, including sentencing on a
11 petition to revoke a suspended sentence or any probation violation.

12 B. When a drug court is established, the following information
13 shall be initially reviewed by the sheriff or designee, if the
14 offender is held in a county jail, or by the chief of police or
15 designee, if the offender is held in a city jail:

16 1. ~~The offender's arrest or charge does not involve a crime of~~
17 ~~violence against any person, unless there is a specific treatment~~
18 ~~program in the jurisdiction designed to address domestic violence~~
19 ~~and the offense is related to domestic violence and substance abuse;~~

20 2. The offender has no prior felony conviction in this state or
21 another state for a ~~violent~~ domestic violence offense within the
22 last ten (10) years, except as may be allowed in a domestic violence
23 treatment program authorized by the drug court program. It shall be
24 sufficient for this paragraph that a criminal history records name

1 search was conducted and indicated no apparent ~~violent~~ domestic
2 violence offense. An offender admitted to the drug court program
3 for a crime which requires the offender to attend a batterers'
4 intervention program certified by the Attorney General's office
5 shall be required to undergo such treatment as a condition of drug
6 court;

7 ~~3.~~ 2. The offender's ~~arrest or~~ charge does not involve a
8 violation of the Trafficking In Illegal Drugs Act;

9 ~~4.~~ 3. The offender has committed a felony offense or a
10 misdemeanor offense where a misdemeanor drug court is authorized;

11 and

12 ~~5.~~ 4. The offender:

- 13 a. admits to having a substance abuse addiction,
- 14 b. appears to have a substance abuse addiction,
- 15 c. is known to have a substance abuse addiction,
- 16 d. the arrest or charge is based upon an offense eligible
17 for the drug court program, or
- 18 e. is a person who has had an assessment authorized by
19 Section 3-704 of Title 43A of the Oklahoma Statutes or
20 drug court investigation and the assessment or
21 investigation recommends the drug court program.

22 ~~B.~~ C. If it appears to the reviewing officer that the offender
23 may be potentially eligible for the drug court program based upon a
24 review of the information in subsection ~~A~~ B of this section, the

1 offender shall be given an eligibility form which may be voluntarily
2 completed by the offender, and the reviewing officer shall file the
3 criminal case record within the time prescribed in subsection E of
4 Section 471.1 of this title. ~~The offender shall not automatically~~
5 ~~be considered for the program based upon this review.~~ The offender
6 ~~must~~ may request consideration for the drug court program as
7 provided in subsection ~~E~~ D of this section ~~and shall have approval~~
8 ~~from the district attorney before being considered for the drug~~
9 ~~court program.~~ The eligibility form shall describe the drug court
10 program for which the offender may be eligible, including, but not
11 limited to:

12 1. A full description of the drug court process and
13 investigation;

14 2. A general explanation of the roles and authority of the
15 supervising staff, the district attorney, the defense attorney, the
16 treatment provider, the offender, and the judge presiding over the
17 cases in the drug court program;

18 3. A clear statement that the drug court judge may decide after
19 a hearing not to consider the offender for the drug court program
20 and in that event the offender will be prosecuted in the traditional
21 manner;

22 4. A clear statement that the offender is required, before
23 consideration in the program, to enter a guilty plea as part of a
24 written plea agreement;

1 5. A clear statement that the plea agreement will specify the
2 offense to which the guilty plea will be entered and will state any
3 penalty to be imposed for the offense, both in the event of a
4 successful completion of the drug court program, and in the event of
5 a failure to complete the program;

6 6. A clear statement that the offender must voluntarily agree
7 to:

- 8 a. waive the right to a speedy trial,
- 9 b. waive the right to a preliminary hearing,
- 10 c. the terms and conditions of a treatment plan, and
- 11 d. sign a performance contract with the drug court;

12 7. A clear statement that the offender, if accepted into the
13 drug court program, may not be incarcerated for the offense in a
14 state correctional institution or jail upon successful completion of
15 the program;

16 8. A clear statement that during participation in the drug
17 court program should the offender fail to comply with the terms of
18 the agreement, the offender may be sanctioned to serve a term of
19 confinement of six (6) months in an intermediate revocation facility
20 operated by the Department of Corrections. An offender shall not be
21 allowed to serve more than two separate terms of confinement in an
22 intermediate revocation facility;

23 9. A clear statement that during participation in the drug
24 court program should the offender:

- a. fail to comply with the terms of the agreements,
 - b. be convicted of a misdemeanor offense which reflects a propensity for violence,
 - c. be arrested for a violent felony offense, or
 - d. be convicted of any felony offense,
- the offender may be required, after a court hearing, to be revoked from the program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

10. An explanation of the criminal record retention and disposition resulting from participation in the drug court program following successful completion of the program.

~~C.~~ D. 1. The offender may request consideration for the drug court program as follows:

- a. if the offender is incarcerated, the offender must sign and complete the eligibility form and return it to the sheriff, if the offender is held in the county jail; or to the chief of police, if the offender is held in a city jail. The sheriff or chief of police, upon receipt of the completed eligibility form, shall file the form with the ~~district attorney at the time of filing the criminal case record or at any time during the period of incarceration when the offender completes the form after the criminal case record has~~

1 ~~been filed~~ drug court coordinator who shall forward
2 the form to the district attorney and the judge
3 assigned to the offender's case, or

4 b. after release of the offender from incarceration, the
5 offender must sign and complete the eligibility form
6 and file it with the ~~district attorney~~ drug court
7 coordinator or the court, prior to or at the time of
8 either initial appearance or arraignment. The drug
9 court coordinator shall forward the form to the
10 district attorney and the judge assigned to the
11 offender's case.

12 2. Any offender desiring legal consultation prior to signing or
13 completing the form for consideration in a drug court program shall
14 be referred to the defense attorney of the drug court team, or a
15 public defender, if the offender is indigent, or allowed to consult
16 with private legal counsel.

17 3. Nothing contained in the provisions of this subsection shall
18 prohibit the drug court from considering any offender deemed
19 eligible for the program at any time prior to sentencing whose case
20 has been prosecuted in the traditional manner, or upon a violation
21 of parole or probation conditions relating to substance abuse, upon
22 recommendation of the district attorney as provided in Section 471.8
23 of this title.

1 ~~D.~~ E. When an offender has filed a ~~voluntary~~ request to be
2 considered for a drug court program ~~on the appropriate form, the~~
3 ~~district attorney shall indicate his or her approval of the request~~
4 ~~by filing the form with the drug court judge. Upon the filing of~~
5 ~~the request form by the district attorney,~~ an initial hearing shall
6 be set before the drug court judge. The hearing shall be not less
7 than three (3) work days nor more than five (5) work days after the
8 date of the filing of the request form. Notice of the hearing shall
9 be given to the drug court team, or in the event no drug court team
10 is designated, to the offender, the district attorney, and to the
11 public defender. The offender shall be required to notify any
12 private legal counsel of the date and time of the hearing.

13 SECTION 3. AMENDATORY 22 O.S. 2021, Section 471.3, is
14 amended to read as follows:

15 Section 471.3 A. At the initial hearing for consideration of
16 an offender for a drug court program, the district attorney shall
17 determine whether ~~or not~~:

18 1. The offender has approval to be considered for the drug
19 court program; and

20 2. ~~The offender has been admitted to the program within the~~
21 ~~preceding five (5) years; provided, having been admitted to a drug~~
22 ~~court program within the previous five (5) years shall not make the~~
23 ~~offender ineligible for consideration; and~~

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1 ~~3.~~ Any statutory preclusion, other prohibition, or program
2 limitation exists and is applicable to considering the offender for
3 the program.

4 The district attorney may object to the consideration of an
5 offender for the drug court program at the initial hearing.

6 B. If the offender voluntarily consents to be considered for
7 the drug court program, and has signed and filed the required form
8 requesting consideration, and no objection has been made by the
9 district attorney, the court ~~shall~~ may refer the offender for a drug
10 court investigation as provided in Section 471.4 of this title, and
11 set a date for a hearing to determine final eligibility for
12 admittance into the program.

13 C. Upon any objection of the district attorney for
14 consideration of an offender for the program, the court shall deny
15 consideration of the offender's request for participation in the
16 drug court program. Upon denial for consideration in the drug court
17 program at the initial hearing, the criminal case shall proceed in
18 the traditional manner. ~~An objection by the district attorney and~~
19 ~~the subsequent~~ A denial of consideration of the offender for the
20 program shall not preclude any future consideration of the offender
21 for the drug court program with the approval of the district
22 attorney.

23 SECTION 4. AMENDATORY 22 O.S. 2021, Section 471.4, is
24 amended to read as follows:

1 Section 471.4 A. Each drug court team shall develop agreed-
2 upon, objective eligibility criteria to determine presumptive drug
3 court eligibility for offenders. The objective criteria shall be in
4 writing and communicated to potential referral sources including but
5 not limited to judges, law enforcement, defense attorneys,
6 prosecutors, treatment professionals, and community supervision
7 officers. The criteria shall target high-risk and high-need
8 offenders who are addicted to illicit drugs or alcohol and who are
9 at a substantial risk for reoffending or failing to complete a less
10 intensive case disposition such as standard probation or pretrial
11 supervision.

12 B. When ~~directed by~~ the drug court judge, district attorney,
13 defense attorney, drug court coordinator, treatment provider, or any
14 other drug court team member determines that further investigation
15 of the offender under consideration is appropriate, the supervising
16 staff for the drug court program shall make an investigation ~~of the~~
17 ~~offender under consideration~~ to determine whether ~~or not~~ the
18 offender is a person who:

- 19 1. Is presumptively eligible for the drug court program;
- 20 2. Would benefit from the drug court program; and
- 21 ~~2.~~ 3. Is appropriate for the drug court program and there is
22 not a more appropriate less restrictive treatment alternative based
23 upon the risk and need levels of the offender.

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1 ~~B.~~ C. The drug court investigation shall be conducted through a
2 standardized screening test and personal interview. A more
3 comprehensive assessment may take place at the time the offender
4 enters the treatment portion of the program and may take place at
5 any time after placement in the drug court program. The
6 investigation shall determine the original treatment plan which the
7 offender will be required to follow, if admitted to the program.
8 Any subsequent assessments or evaluations by the treatment provider,
9 if the offender is admitted to the program, may be used to determine
10 modifications needed to the original treatment plan. The
11 investigation shall include, but not be limited to, the following
12 information:

- 13 1. The person's age and physical condition;
- 14 2. Employment and military service records;
- 15 3. Educational background and literacy level;
- 16 4. Community and family relations;
- 17 5. Prior and current drug and alcohol use;
- 18 6. Mental health and medical treatment history, including
19 substance abuse treatment history;
- 20 7. Demonstrable motivation; and
- 21 8. Other mitigating or aggravating factors.

22 ~~C.~~ D. The drug court investigation may be conducted before or
23 after the initial hearing for consideration but shall occur before
24 the hearing for final determination of eligibility for the drug

1 court program. When an offender is appropriate for admittance to
2 the program, the supervising staff shall make a recommendation for
3 the treatment program or programs that are available in the
4 jurisdiction and which would benefit the offender and accept the
5 offender. The investigation findings and recommendations for
6 program placement shall be reported to the drug court judge, the
7 district attorney, the offender, and the defense attorney prior to
8 the next scheduled hearing.

9 ~~D.~~ E. The district attorney and the defense attorney for the
10 offender shall independently review the findings and recommendations
11 of the drug court investigation report. For an offender to remain
12 eligible for consideration in the program, both the district
13 attorney and the defense attorney ~~must accept the recommended~~
14 ~~treatment plan, and~~ shall negotiate the terms of the written plea
15 agreement with all punishment provisions specified ~~before~~ prior to
16 the scheduled hearing date for determining final eligibility. Upon
17 failure of the district attorney and defense attorney to negotiate
18 the written plea agreement, the judge presiding over the case may
19 order the criminal case ~~shall~~ to be withdrawn from the drug court
20 program and processed in the traditional manner. The punishment
21 provisions of the written plea agreement shall emphasize reparation
22 to the victim, community, and state. If the crime for which the
23 offender is seeking eligibility to drug court involves a victim,
24 notification to the victim shall be in compliance with subsection A

1 of Section 34 of Article II of the Oklahoma Constitution and the
2 Oklahoma Victim's Rights Act, Section 142A et seq. of Title 21 of
3 the Oklahoma Statutes, and shall include the right to provide
4 victim's impact statements.

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

9 G. The drug court coordinator shall keep a record of all
10 presumptively eligible offenders who are not placed in the drug
11 court program. The record shall indicate the reason each offender
12 was not placed in the program and information about the ultimate
13 case disposition for each offender. The record shall be made
14 available to all members of the drug court team.

15 ~~F.~~ H. For purposes of ~~this act~~ Section 471 et seq. of this
16 title, "supervising staff" means a Department of Corrections
17 employee assigned to monitor offenders in the drug court program, a
18 ~~community provider assigned to monitor offenders in the program, a~~
19 ~~state or local agency, county, or municipal governmental~~
20 representative or, a certified treatment provider participating in
21 the program, or a CLEET-certified person designated by the judge
22 drug court program to perform drug court investigations.

23 SECTION 5. AMENDATORY 22 O.S. 2021, Section 471.6, is
24 amended to read as follows:

1 Section 471.6 A. The drug court judge shall conduct a hearing
2 as required by subsection ~~E~~ F of Section 471.4 of this title to
3 determine final eligibility by considering:

4 1. Whether the offender voluntarily consents to the program
5 requirements;

6 2. Whether to accept the offender based upon the findings and
7 recommendations of the drug court investigation authorized by
8 Section 471.4 of this title;

9 3. Whether there is a written plea agreement, and if so,
10 whether the terms and conditions of the written negotiated plea
11 between the district attorney, the defense attorney and the offender
12 are appropriate and consistent with the penalty provisions and
13 conditions of other similar cases;

14 4. Whether there is an appropriate treatment program available
15 to the offender and whether there is a recommended treatment plan;
16 and

17 5. Any information relevant to determining eligibility;
18 provided, however, an offender shall not be denied admittance to any
19 drug court program based upon an inability to pay court costs or
20 other costs or fees.

21 B. At the hearing to determine final eligibility for the drug
22 court program, the judge shall not grant any admission of any
23 offender to the program when:

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

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

5 3. The treatment program or drug court team is unwilling to
6 accept the offender;

7 4. The offender ~~was ineligible for consideration by the nature~~
8 ~~of a violent offense at the time of arrest, and the charge has been~~
9 ~~modified to~~ does not meet the presumptive eligibility criteria of
10 the program; or

11 5. The offender is inappropriate for admission to the program,
12 in the discretion of the judge.

13 C. At the final eligibility hearing, if evidence is presented
14 that was not discovered by the drug court investigation, the
15 district attorney or the defense attorney may make an objection and
16 may ask the court to withdraw the plea agreement previously
17 negotiated. The court shall determine whether to proceed and
18 overrule the objection, to sustain the objection and transfer the
19 case for traditional criminal prosecution or to require further
20 negotiations of the plea or punishment provisions. The decision of
21 the judge for or against eligibility and admission shall be final.

22 D. When the court accepts the treatment plan with the written
23 plea agreement, the offender, upon entering the plea as agreed by
24 the parties, shall be ordered and escorted immediately into the

1 program. The offender must have voluntarily signed the necessary
2 court documents before the offender may be admitted to treatment.

3 The court documents shall include:

4 1. Waiver of the offender's rights to speedy trial;

5 2. A written plea agreement which sets forth the offense
6 charged, the penalty to be imposed for the offense in the event of a
7 breach of the agreement and the penalty to be imposed, if any, in
8 the event of a successful completion of the treatment program;
9 provided, however, incarceration shall be prohibited when the
10 offender completes the treatment program;

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

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

16 E. If admission into the drug court program is denied, the
17 criminal case shall be returned to the traditional criminal docket
18 and shall proceed as provided for any other criminal case.

19 F. At the time an offender is admitted to the drug court
20 program, any bail or undertaking on behalf of the offender shall be
21 exonerated.

22 G. The period of time during which an offender may participate
23 in the active treatment portion of the drug court program shall be
24 not less than six (6) months nor more than twenty-four (24) months

1 and may include a period of supervision not less than six (6) months
2 nor more than one (1) year following the treatment portion of the
3 program. The period of supervision may be extended by order of the
4 court for not more than six (6) months. No treatment dollars shall
5 be expended on the offender during the extended period of
6 supervision. If the court orders that the period of supervision
7 shall be extended, the drug court judge, district attorney, the
8 attorney for the offender and the supervising staff for the drug
9 court program shall evaluate the appropriateness of continued
10 supervision on a quarterly basis. All participating treatment
11 providers shall be certified by the Department of Mental Health and
12 Substance Abuse Services and shall be selected and evaluated for
13 performance-based effectiveness annually by the Department of Mental
14 Health and Substance Abuse Services. Treatment programs shall be
15 designed to be completed within twelve (12) months and shall have
16 relapse prevention and evaluation components.

17 H. The drug court judge shall order the offender to pay court
18 costs, treatment costs, drug testing costs, a program user fee not
19 to exceed Twenty Dollars (\$20.00) per month and necessary
20 supervision fees, unless the offender is indigent. The drug court
21 judge shall establish a schedule for the payment of costs and fees.
22 The cost for treatment, drug testing and supervision shall be set by
23 the treatment and supervision providers respectively and made part
24 of the court's order for payment. User fees shall be set by the

1 drug court judge within the maximum amount authorized by this
2 subsection and payable directly to the court clerk for the benefit
3 and administration of the drug court program. Treatment, drug
4 testing and supervision costs shall be paid to the respective
5 providers. The court clerk shall collect all other costs and fees
6 ordered and deposit such costs and fees with the county treasurer in
7 a drug court fund created and administered pursuant to subsection I
8 of Section 471.1 of this title. The remaining user fees shall be
9 remitted to the State Treasurer by the court clerk for deposit in
10 the Department of Mental Health and Substance Abuse Services' Drug
11 Abuse Education and Treatment Revolving Fund established pursuant to
12 Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders
13 for costs and fees pursuant to this subsection shall not be limited
14 for purposes of collection to the maximum term of imprisonment for
15 which the offender could have been imprisoned for the offense, nor
16 shall any court order for costs and fees be limited by any term of
17 probation, parole, supervision, treatment or extension thereof.
18 Court orders for costs and fees shall remain an obligation of the
19 offender until fully paid; provided, however, once the offender has
20 successfully completed the drug court program, the drug court judge
21 shall have the discretion to expressly waive all or part of the
22 costs and fees provided for in this subsection if, in the opinion of
23 the drug court judge, continued payment of the costs and fees by the
24 offender would create a financial hardship for the offender.

1 Offenders who have not fully paid all costs and fees pursuant to
2 court order but who have otherwise successfully completed the drug
3 court program shall not be counted as an active drug court
4 participant for purposes of drug court contracts or program
5 participant numbers.

6 I. Notwithstanding any other provision of law, if the driving
7 privileges of the offender have been suspended, revoked, canceled or
8 denied by the Department of Public Safety and if the drug court
9 judge determines that no other means of transportation for the
10 offender is available, the drug court judge may enter a written
11 order requiring the Department of Public Safety to stay any and all
12 such actions against the Class D driving privileges of the offender;
13 provided, the stay shall not be construed to grant driving
14 privileges to an offender who has not been issued a driver license
15 by the Department or whose Oklahoma driver license has expired, in
16 which case the offender shall be required to apply for and be found
17 eligible for a driver license, pass all examinations, if applicable,
18 and pay all statutory driver license issuance or renewal fees. The
19 offender shall provide proof of insurance to the drug court judge
20 prior to the judge ordering a stay of any driver license suspension,
21 revocation, cancellation or denial. When a judge of a drug court
22 enters a stay against an order by the Department of Public Safety
23 suspending or revoking the driving privileges of an offender, the
24 time period set in the order by the Department for the suspension or

1 revocation shall continue to run during the stay. When an offender
2 has successfully completed the drug court program, the drug court
3 judge shall maintain jurisdiction over the offender's driving
4 privileges for one (1) year after the date on which the offender
5 graduates from the drug court program.

6 SECTION 6. AMENDATORY 22 O.S. 2021, Section 471.8, is
7 amended to read as follows:

8 Section 471.8 The drug court program may be utilized as a
9 disciplinary sanction for a violation of a condition of parole
10 related to substance abuse for eligible offenses, or in a case where
11 the offender has been tried for an eligible offense in the
12 traditional manner, given either a deferred or suspended sentence,
13 and has violated a condition of the sentence. The judge shall not
14 order an offender into treatment within the scope of any drug court
15 program without prior approval from ~~the designated drug court team,~~
16 ~~or the district attorney if no team is designated. Any judge having~~
17 ~~a criminal case assigned where drug court processing appears to be~~
18 ~~more appropriate for the offender, may request a review of the case~~
19 ~~by the drug court team, or if no team is designated, a review by~~
20 both the district attorney and the defense attorney or offender. If
21 both the district attorney and the defense attorney or offender
22 agree, the case may be transferred to the drug court program with
23 the approval of ~~a designated~~ the presiding drug court judge. After
24 a case has been transferred to the drug court docket, it shall

1 continue with the designated drug court judge until the offender is
2 revoked or released from the program. The offenders whose cases
3 have been transferred from a traditional criminal case docket to the
4 drug court docket shall be required to have a drug court
5 investigation and complete the drug court process prior to placement
6 in any treatment program authorized by ~~this act~~ Section 471 et seq.
7 of this title.

8 SECTION 7. AMENDATORY 22 O.S. 2021, Section 471.10, is
9 amended to read as follows:

10 Section 471.10 ~~A. For purposes of this act, the following~~
11 ~~state agencies shall jointly develop a standardized testing~~
12 ~~instrument with an appropriate scoring device for use by all the~~
13 ~~district courts in this state in implementing the Oklahoma Drug~~
14 ~~Court Act:~~

- 15 ~~1. The Department of Corrections;~~
- 16 ~~2. The Administrative Office of the Courts;~~
- 17 ~~3. The Department of Mental Health and Substance Abuse~~
18 ~~Services;~~
- 19 ~~4. The State Department of Health;~~
- 20 ~~5. The State Department of Education;~~
- 21 ~~6. The Office of Juvenile Affairs; and~~
- 22 ~~7. The Oklahoma Department of Vocational and Technical~~
23 ~~Education.~~

24

1 ~~B. The Administrative Office of the Courts shall promulgate~~
2 ~~rules, procedures, and forms necessary to implement the Oklahoma~~
3 ~~Drug Court Act to ensure statewide uniformity in procedures and~~
4 ~~forms. The Department of Mental Health and Substance Abuse Services~~
5 ~~is directed to develop a training and implementation manual for drug~~
6 ~~court programs with the assistance of the State Department of~~
7 ~~Health, the State Department of Education, the Oklahoma Department~~
8 ~~of Career and Technology Education, the Department of Corrections,~~
9 ~~the Office of Juvenile Affairs, and the Administrative Office of the~~
10 ~~Courts. The Department of Mental Health and Substance Abuse~~
11 ~~Services shall provide technical assistance to the district courts~~
12 ~~in implementing drug court programs.~~

13 ~~C. All participating agencies shall promulgate rules as~~
14 ~~necessary to comply with the provisions of this act Section 471 et~~
15 ~~seq. of this title. Each district court shall establish rules for~~
16 ~~their jurisdiction upon implementation of a drug court program,~~
17 ~~pursuant to the provisions of this act."~~

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1 ENGROSSED SENATE
2 BILL NO. 1548

By: Thompson of the Senate

3 and

4 Hilbert of the House

5
6 An Act relating to criminal procedure; amending 22
7 O.S. 2021, Sections 471.1, 471.2, 471.3, 471.4,
8 471.6, 471.8, and 471.10, which relate to the
9 Oklahoma Drug Court Act; modifying entity authorized
10 to establish drug court program; establishing
11 requirements for administrative contracts for
12 maintaining drug court programs; requiring
13 designation of drug court coordinator; providing for
14 funding for drug court programs; providing for
15 administrative support and oversight of drug court
16 programs; authorizing establishment of juvenile drug
17 courts; modifying participants in drug court team;
18 modifying eligibility requirements for drug court
19 programs; modifying procedures for review of offender
20 for drug court program; modifying procedures for
21 offender request for consideration for drug court
22 program; modifying requirements for initial hearing
23 for consideration for drug court program; requiring
24 development of written eligibility criteria by drug
court team; establishing requirements for certain
criteria; modifying requirements for drug court
investigation report; requiring notification to
victim under certain circumstances; requiring drug
court coordinator to maintain record of presumptively
eligible offenders not placed in drug court;
modifying definition; modifying prohibitions for
admission to program; modifying requirements for
utilization of programs as disciplinary sanction;
modifying authority for implementation of Oklahoma
Drug Court Act; updating statutory references; and
providing an effective date.

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

1 SECTION 8. AMENDATORY 22 O.S. 2021, Section 471.1, is
2 amended to read as follows:

3 Section 471.1. A. For purposes of the Oklahoma Drug Court Act,
4 "drug court", "drug court program" or "program" means an immediate
5 and highly structured judicial intervention process for substance
6 abuse treatment of eligible offenders which expedites the criminal
7 case and requires successful completion of the plea agreement.

8 B. Each ~~district court~~ county of this state is authorized to
9 establish a drug court program pursuant to the provisions of the
10 Oklahoma Drug Court Act, subject to availability of funds. ~~Juvenile~~
11 ~~drug courts may be established based upon the provisions of the~~
12 ~~Oklahoma Drug Court Act; provided, however, juveniles shall not be~~
13 ~~held, processed or treated in any manner which violates any~~
14 ~~provision of Title 10A of the Oklahoma Statutes~~

15 1. In each county with a drug court program, the board of
16 county commissioners shall enter into an administrative contract
17 with the Department of Mental Health and Substance Abuse Services
18 (DMHSAS) for establishing and maintaining the drug court program.

19 2. For drug court programs that encompass more than one county,
20 a single administrative contract may be executed by the board of
21 county commissioners in the county receiving payment, which shall be
22 designated as the primary county for the program.

23 3. Upon signing the contract, the board of county commissioners
24 shall designate the drug court coordinator. The county may identify

1 the program coordinator as a county employee or enter into a
2 subcontract with a court services subcontractor to provide the
3 coordinator position. If additional staff positions are necessary
4 to support the program, the county may identify additional county
5 employee positions to serve as drug court staff, subcontract with
6 its court services subcontractor to provide one or more drug court
7 program staff, or use a combination of county employees and staff
8 provided through the subcontractor. Nothing in this paragraph shall
9 be construed to prohibit personnel from other private entities or
10 state agencies from serving as drug court support staff as approved
11 by the board of county commissioners. All staff shall be under the
12 supervision of the drug court coordinator when performing duties
13 related to the drug court program.

14 4. The county shall receive and allocate the funds from DMHSAS,
15 as set forth in the administrative contract, for the operation and
16 staffing of the drug court program. The county or its court
17 services subcontractor, where applicable, shall be responsible for
18 overhead and expenses associated with operating a drug court program
19 including risk management and liability insurance, staff salaries
20 and benefits, computer equipment, and compliance officer staffing.

21 5. The county, or the county's designated court services
22 subcontractor, shall provide administrative support and oversight
23 for the drug court program and the drug court program staff. Such
24 administrative support and oversight shall include:

1 a. employing and supervising the drug court coordinator
2 and any other staff who are assigned to support the
3 drug court program, and

4 b. communicating with DMHSAS as required by the
5 administrative contract, to monitor the performance
6 and success of the drug court program based upon
7 established formulas, case load statistics, and
8 performance metrics.

9 C. ~~Drug court programs shall not apply to any violent criminal~~
10 ~~offense.~~ Eligible offenses may ~~further~~ be restricted by the rules
11 of the specific drug court program. Nothing in the Oklahoma Drug
12 Court Act shall be construed to require a drug court to consider
13 every offender with a treatable condition or addiction even if the
14 controlling offense is eligible for consideration in the program.
15 Traditional prosecution shall be required where an offender is
16 determined not appropriate for the drug court program. Juvenile
17 drug courts may be established based upon the provisions of the
18 Oklahoma Drug Court Act; provided, however, a juvenile shall not be
19 held, processed, or treated in any manner which violates any
20 provision of Title 10A of the Oklahoma Statutes.

21 D. Drug court programs shall require a separate judicial
22 processing system differing in practice and design from the
23 traditional adversarial criminal prosecution and trial systems.
24 Whenever possible, a drug court team shall be designated consisting

1 of a judge to ~~administer~~ preside over the drug court judicial
2 process and hold proceedings where participants are advanced through
3 the program, a district attorney, a defense attorney, a drug court
4 coordinator, and other persons designated by the drug court team who
5 shall have appropriate understanding of the goals of the program and
6 of the appropriate treatment methods for the various conditions.
7 The assignment of any person to the drug court team shall not
8 preclude the assigned person from performing other duties required
9 in the course of their office or employment. The chief judge of the
10 judicial district, or if the district has more than one chief judge
11 then the presiding judge of the Administrative Judicial District,
12 shall designate one or more judges to ~~administer~~ preside over cases
13 assigned to the drug court program. The assignment of any judge to
14 a drug court program or the designation of a drug court docket shall
15 not mandate the assignment of all substance abuse-related cases to
16 the drug court docket or the program; however, nothing in the
17 Oklahoma Drug Court Act shall be construed to preclude the
18 assignment of all criminal cases relating to substance abuse or drug
19 possession as provided by the rules established for the specific
20 drug court program. Judicial immunity shall extend to any duty
21 required by law to be performed by a judge of a drug court.

22 E. When a drug court program is established, the arresting
23 officer shall file the criminal case record for potentially eligible
24 offenders with the district attorney within four (4) days of the

1 arrest. The district attorney shall file an information in the case
2 within twenty-four (24) hours of receipt of the criminal case record
3 when the offender appears eligible for consideration for the
4 program. The information may be amended as necessary when an
5 offender is denied admittance into the drug court program or for
6 other purposes as provided in Section 304 of this title. Any person
7 arrested upon a warrant for his or her arrest shall not be eligible
8 for the drug court program without the approval of the district
9 attorney. Any criminal case which has been filed and processed in
10 the traditional manner shall be cross-referenced to a drug court
11 case file by the court clerk if the case is subsequently assigned to
12 the drug court program. The originating criminal case file shall
13 remain open to public inspection. The judge shall determine what
14 information or pleadings are to be retained in the drug court case
15 file, which shall be closed to public inspection.

16 F. The court may request assistance from the Department of
17 Mental Health and Substance Abuse Services which shall be the
18 primary agency to assist in developing and implementing a drug court
19 program or from any state or local agency in obtaining the necessary
20 treatment services which will assure maximum opportunity for
21 successful treatment, education and rehabilitation for offenders
22 admitted to the program. All participating state and local agencies
23 are directed to coordinate with each other and cooperate in

24

1 assisting the ~~district court~~ county in establishing a drug court
2 program.

3 G. Each drug court program shall ~~ensure,~~ apply recognized best
4 practices including but not ~~be~~ limited to:

5 1. Strong linkage between participating agencies;

6 2. Access by all participating parties of a case to information
7 on the progress of the offender;

8 3. Vigilant supervision and monitoring procedures;

9 4. Random substance abuse testing;

10 5. Provisions for noncompliance, modification of the treatment
11 plan and revocation proceedings;

12 6. Availability of residential treatment facilities and
13 outpatient services;

14 7. Payment of court costs, treatment costs, supervision fees
15 and program user fees by the offender;

16 8. Methods for measuring application of disciplinary sanctions
17 including provisions for:

18 a. increased supervision,

19 b. urinalysis testing,

20 c. intensive treatment,

21 d. short-term confinement not to exceed five (5) days,

22 e. recycling the offender into the program after a
23 disciplinary action for a minimum violation of the
24 treatment plan,

1 f. reinstating the offender into the program after a
2 disciplinary action for a major violation of the
3 treatment plan, and

4 g. revocation from the program; and

5 9. Methods for measuring performance-based effectiveness of
6 each individual treatment provider's services.

7 H. All drug court programs shall be required to keep reliable
8 data on recidivism, relapse, restarts, sanctions imposed and
9 incentives given.

10 I. All funds received by ~~a drug court, in its capacity as a~~ the
11 county for the drug court program, shall be credited to and
12 accounted for in the county treasurer's office in a special cash
13 fund to be known as the "Drug Court Fund". Each drug court fund
14 shall be a continuing fund, not subject to fiscal year limitations,
15 and shall be dedicated to the operation of the drug court as
16 authorized by law. The expenditures of any funds received by a drug
17 court program and deposited with the county treasurer shall be made
18 only upon sworn itemized claims approved by the county clerk, filed
19 with the county treasurer and paid by cash voucher drawn by the
20 county treasurer from the funds.

21 J. Nothing in this section shall prohibit any county from
22 establishing a drug court for misdemeanor offenses. Such
23 misdemeanor drug courts shall follow the rules and regulations of
24 felony drug courts except that the penalty for revocation shall not

1 exceed one (1) year in the county jail or the maximum penalty for
2 the misdemeanor allowed by statute, whichever is less. The
3 Department of Mental Health and Substance Abuse Services shall
4 provide technical assistance to the counties that establish
5 misdemeanor drug courts.

6 SECTION 9. AMENDATORY 22 O.S. 2021, Section 471.2, is
7 amended to read as follows:

8 Section 471.2. A. The opportunity for review of an offender
9 for a drug court program shall occur at any time prior to
10 disposition of the case and sentencing of the offender, including
11 sentencing on a petition to revoke a suspended sentence or any
12 probation violation.

13 B. When a drug court is established, the following information
14 shall be initially reviewed by the sheriff or designee, if the
15 offender is held in a county jail, or by the chief of police or
16 designee, if the offender is held in a city jail:

17 1. ~~The offender's arrest or charge does not involve a crime of~~
18 ~~violence against any person, unless there is a specific treatment~~
19 ~~program in the jurisdiction designed to address domestic violence~~
20 ~~and the offense is related to domestic violence and substance abuse;~~

21 2. The offender has no prior felony conviction in this state or
22 another state for a ~~violent~~ domestic violence offense within the
23 last ten (10) years, except as may be allowed in a domestic violence
24 treatment program authorized by the drug court program. It shall be

1 sufficient for this paragraph that a criminal history records name
2 search was conducted and indicated no apparent ~~violent~~ domestic
3 violence offense. An offender admitted to the drug court program
4 for a crime which requires the offender to attend a batterers'
5 intervention program certified by the Attorney General's office
6 shall be required to undergo such treatment as a condition of drug
7 court;

8 ~~3.~~ 2. The offender's ~~arrest or~~ charge does not involve a
9 violation of the Trafficking In Illegal Drugs Act;

10 ~~4.~~ 3. The offender has committed a felony offense or a
11 misdemeanor offense where a misdemeanor drug court is authorized;

12 and

13 ~~5.~~ 4. The offender:

- 14 a. admits to having a substance abuse addiction,
- 15 b. appears to have a substance abuse addiction,
- 16 c. is known to have a substance abuse addiction,
- 17 d. the arrest or charge is based upon an offense eligible
18 for the drug court program, or
- 19 e. is a person who has had an assessment authorized by
20 Section 3-704 of Title 43A of the Oklahoma Statutes or
21 drug court investigation and the assessment or
22 investigation recommends the drug court program.

23 ~~B.~~ C. If it appears to the reviewing officer that the offender
24 may be potentially eligible for the drug court program based upon a

1 review of the information in subsection ~~A~~ B of this section, the
2 offender shall be given an eligibility form which may be voluntarily
3 completed by the offender, and the reviewing officer shall file the
4 criminal case record within the time prescribed in subsection E of
5 Section 471.1 of this title. ~~The offender shall not automatically~~
6 ~~be considered for the program based upon this review.~~ The offender
7 ~~must~~ may request consideration for the drug court program as
8 provided in subsection ~~E~~ D of this section ~~and shall have approval~~
9 ~~from the district attorney before being considered for the drug~~
10 ~~court program.~~ The eligibility form shall describe the drug court
11 program for which the offender may be eligible, including, but not
12 limited to:

13 1. A full description of the drug court process and
14 investigation;

15 2. A general explanation of the roles and authority of the
16 supervising staff, the district attorney, the defense attorney, the
17 treatment provider, the offender, and the judge presiding over the
18 cases in the drug court program;

19 3. A clear statement that the drug court judge may decide after
20 a hearing not to consider the offender for the drug court program
21 and in that event the offender will be prosecuted in the traditional
22 manner;

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1 4. A clear statement that the offender is required, before
2 consideration in the program, to enter a guilty plea as part of a
3 written plea agreement;

4 5. A clear statement that the plea agreement will specify the
5 offense to which the guilty plea will be entered and will state any
6 penalty to be imposed for the offense, both in the event of a
7 successful completion of the drug court program, and in the event of
8 a failure to complete the program;

9 6. A clear statement that the offender must voluntarily agree
10 to:

- 11 a. waive the right to a speedy trial,
- 12 b. waive the right to a preliminary hearing,
- 13 c. the terms and conditions of a treatment plan, and
- 14 d. sign a performance contract with the drug court;

15 7. A clear statement that the offender, if accepted into the
16 drug court program, may not be incarcerated for the offense in a
17 state correctional institution or jail upon successful completion of
18 the program;

19 8. A clear statement that during participation in the drug
20 court program should the offender fail to comply with the terms of
21 the agreement, the offender may be sanctioned to serve a term of
22 confinement of six (6) months in an intermediate revocation facility
23 operated by the Department of Corrections. An offender shall not be
24

1 allowed to serve more than two separate terms of confinement in an
2 intermediate revocation facility;

3 9. A clear statement that during participation in the drug
4 court program should the offender:

- 5 a. fail to comply with the terms of the agreements,
- 6 b. be convicted of a misdemeanor offense which reflects a
7 propensity for violence,
- 8 c. be arrested for a violent felony offense, or
- 9 d. be convicted of any felony offense,

10 the offender may be required, after a court hearing, to be revoked
11 from the program and sentenced without trial pursuant to the
12 punishment provisions of the negotiated plea agreement; and

13 10. An explanation of the criminal record retention and
14 disposition resulting from participation in the drug court program
15 following successful completion of the program.

16 ~~C.~~ D. 1. The offender may request consideration for the drug
17 court program as follows:

- 18 a. if the offender is incarcerated, the offender must
19 sign and complete the eligibility form and return it
20 to the sheriff, if the offender is held in the county
21 jail; or to the chief of police, if the offender is
22 held in a city jail. The sheriff or chief of police,
23 upon receipt of the completed eligibility form, shall
24 file the form with the ~~district attorney at the time~~

1 ~~of filing the criminal case record or at any time~~
2 ~~during the period of incarceration when the offender~~
3 ~~completes the form after the criminal case record has~~
4 ~~been filed~~ drug court coordinator who shall forward
5 the form to the district attorney and the judge
6 assigned to the offender's case, or

7 b. after release of the offender from incarceration, the
8 offender must sign and complete the eligibility form
9 and file it with the ~~district attorney~~ drug court
10 coordinator or the court, prior to or at the time of
11 either initial appearance or arraignment. The drug
12 court coordinator shall forward the form to the
13 district attorney and the judge assigned to the
14 offender's case.

15 2. Any offender desiring legal consultation prior to signing or
16 completing the form for consideration in a drug court program shall
17 be referred to the defense attorney of the drug court team, or a
18 public defender, if the offender is indigent, or allowed to consult
19 with private legal counsel.

20 3. Nothing contained in the provisions of this subsection shall
21 prohibit the drug court from considering any offender deemed
22 eligible for the program at any time prior to sentencing whose case
23 has been prosecuted in the traditional manner, or upon a violation
24 of parole or probation conditions relating to substance abuse, upon

1 recommendation of the district attorney as provided in Section 471.8
2 of this title.

3 ~~D.~~ E. When an offender has filed a ~~voluntary~~ request to be
4 considered for a drug court program ~~on the appropriate form, the~~
5 ~~district attorney shall indicate his or her approval of the request~~
6 ~~by filing the form with the drug court judge. Upon the filing of~~
7 ~~the request form by the district attorney,~~ an initial hearing shall
8 be set before the drug court judge. The hearing shall be not less
9 than three (3) work days nor more than five (5) work days after the
10 date of the filing of the request form. Notice of the hearing shall
11 be given to the drug court team, or in the event no drug court team
12 is designated, to the offender, the district attorney, and to the
13 public defender. The offender shall be required to notify any
14 private legal counsel of the date and time of the hearing.

15 SECTION 10. AMENDATORY 22 O.S. 2021, Section 471.3, is
16 amended to read as follows:

17 Section 471.3. A. At the initial hearing for consideration of
18 an offender for a drug court program, the district attorney shall
19 determine whether ~~or not:~~

20 1. The offender has approval to be considered for the drug
21 court program; and

22 2. ~~The offender has been admitted to the program within the~~
23 ~~preceding five (5) years; provided, having been admitted to a drug~~
24

1 ~~court program within the previous five (5) years shall not make the~~
2 ~~offender ineligible for consideration; and~~

3 ~~3.~~ Any statutory preclusion, other prohibition, or program
4 limitation exists and is applicable to considering the offender for
5 the program.

6 The district attorney may object to the consideration of an
7 offender for the drug court program at the initial hearing.

8 B. If the offender voluntarily consents to be considered for
9 the drug court program, and has signed and filed the required form
10 requesting consideration, and no objection has been made by the
11 district attorney, the court ~~shall~~ may refer the offender for a drug
12 court investigation as provided in Section 471.4 of this title, and
13 set a date for a hearing to determine final eligibility for
14 admittance into the program.

15 C. Upon any objection of the district attorney for
16 consideration of an offender for the program, the court shall deny
17 consideration of the offender's request for participation in the
18 drug court program. Upon denial for consideration in the drug court
19 program at the initial hearing, the criminal case shall proceed in
20 the traditional manner. ~~An objection by the district attorney and~~
21 ~~the subsequent~~ A denial of consideration of the offender for the
22 program shall not preclude any future consideration of the offender
23 for the drug court program with the approval of the district
24 attorney.

1 SECTION 11. AMENDATORY 22 O.S. 2021, Section 471.4, is
2 amended to read as follows:

3 Section 471.4. A. Each drug court team shall develop agreed-
4 upon, objective eligibility criteria to determine presumptive drug
5 court eligibility for offenders. The objective criteria shall be in
6 writing and communicated to potential referral sources including but
7 not limited to judges, law enforcement, defense attorneys,
8 prosecutors, treatment professionals, and community supervision
9 officers. The criteria shall target high-risk and high-need
10 offenders who are addicted to illicit drugs or alcohol and who are
11 at a substantial risk for reoffending or failing to complete a less
12 intensive case disposition such as standard probation or pretrial
13 supervision.

14 B. When directed by the drug court judge, district attorney,
15 defense attorney, drug court coordinator, treatment provider, or any
16 other drug court team member determines that further investigation
17 of the offender under consideration is appropriate, the supervising
18 staff for the drug court program shall make an investigation of the
19 offender under consideration to determine whether or not the
20 offender is a person who:

- 21 1. Is presumptively eligible for the drug court program;
- 22 2. Would benefit from the drug court program; and

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1 ~~2.~~ 3. Is appropriate for the drug court program and there is
2 not a more appropriate less restrictive treatment alternative based
3 upon the risk and need levels of the offender.

4 ~~B.~~ C. The drug court investigation shall be conducted through a
5 standardized screening test and personal interview. A more
6 comprehensive assessment may take place at the time the offender
7 enters the treatment portion of the program and may take place at
8 any time after placement in the drug court program. The
9 investigation shall determine the original treatment plan which the
10 offender will be required to follow, if admitted to the program.
11 Any subsequent assessments or evaluations by the treatment provider,
12 if the offender is admitted to the program, may be used to determine
13 modifications needed to the original treatment plan. The
14 investigation shall include, but not be limited to, the following
15 information:

- 16 1. The person's age and physical condition;
- 17 2. Employment and military service records;
- 18 3. Educational background and literacy level;
- 19 4. Community and family relations;
- 20 5. Prior and current drug and alcohol use;
- 21 6. Mental health and medical treatment history, including
22 substance abuse treatment history;
- 23 7. Demonstrable motivation; and
- 24 8. Other mitigating or aggravating factors.

1 ~~C.~~ D. The drug court investigation may be conducted before or
2 after the initial hearing for consideration but shall occur before
3 the hearing for final determination of eligibility for the drug
4 court program. When an offender is appropriate for admittance to
5 the program, the supervising staff shall make a recommendation for
6 the treatment program or programs that are available in the
7 jurisdiction and which would benefit the offender and accept the
8 offender. The investigation findings and recommendations for
9 program placement shall be reported to the drug court judge, the
10 district attorney, the offender, and the defense attorney prior to
11 the next scheduled hearing.

12 ~~D.~~ E. The district attorney and the defense attorney for the
13 offender shall independently review the findings and recommendations
14 of the drug court investigation report. For an offender to remain
15 eligible for consideration in the program, both the district
16 attorney and the defense attorney ~~must accept the recommended~~
17 ~~treatment plan, and~~ shall negotiate the terms of the written plea
18 agreement with all punishment provisions specified ~~before~~ prior to
19 the scheduled hearing date for determining final eligibility. Upon
20 failure of the district attorney and defense attorney to negotiate
21 the written plea agreement, the judge presiding over the case may
22 order the criminal case ~~shall~~ to be withdrawn from the drug court
23 program and processed in the traditional manner. The punishment
24 provisions of the written plea agreement shall emphasize reparation

1 to the victim, community, and state. If the crime for which the
2 offender is seeking eligibility to drug court involves a victim,
3 notification to the victim shall be in compliance with subsection A
4 of Section 34 of Article II of the Oklahoma Constitution and the
5 Oklahoma Victim's Rights Act, Section 142A et seq. of Title 21 of
6 the Oklahoma Statutes, and shall include the right to provide
7 victim's impact statements.

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

12 G. The drug court coordinator shall keep a record of all
13 presumptively eligible offenders who are not placed in the drug
14 court program. The record shall indicate the reason each offender
15 was not placed in the program and information about the ultimate
16 case disposition for each offender. The record shall be made
17 available to all members of the drug court team.

18 ~~F.~~ H. For purposes of ~~this act~~ Section 471 et seq. of this
19 title, "supervising staff" means a Department of Corrections
20 employee assigned to monitor offenders in the drug court program, a
21 community provider assigned to monitor offenders in the program, a
22 state, ~~or local agency~~ county, or municipal governmental
23 representative, ~~or~~ a certified treatment provider participating in
24

1 the program, or a CLEET-certified person designated by the ~~judge~~
2 drug court program to perform drug court investigations.

3 SECTION 12. AMENDATORY 22 O.S. 2021, Section 471.6, is
4 amended to read as follows:

5 Section 471.6. A. The drug court judge shall conduct a hearing
6 as required by subsection E of Section 471.4 of this title to
7 determine final eligibility by considering:

8 1. Whether the offender voluntarily consents to the program
9 requirements;

10 2. Whether to accept the offender based upon the findings and
11 recommendations of the drug court investigation authorized by
12 Section 471.4 of this title;

13 3. Whether there is a written plea agreement, and if so,
14 whether the terms and conditions of the written negotiated plea
15 between the district attorney, the defense attorney and the offender
16 are appropriate and consistent with the penalty provisions and
17 conditions of other similar cases;

18 4. Whether there is an appropriate treatment program available
19 to the offender and whether there is a recommended treatment plan;
20 and

21 5. Any information relevant to determining eligibility;
22 provided, however, an offender shall not be denied admittance to any
23 drug court program based upon an inability to pay court costs or
24 other costs or fees.

1 B. At the hearing to determine final eligibility for the drug
2 court program, the judge shall not grant any admission of any
3 offender to the program when:

4 1. The required treatment plan and plea agreement have not been
5 completed;

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

8 3. The treatment program or drug court team is unwilling to
9 accept the offender;

10 4. The offender ~~was ineligible for consideration by the nature~~
11 ~~of a violent offense at the time of arrest, and the charge has been~~
12 ~~modified to~~ does not meet the presumptive eligibility criteria of
13 the program; or

14 5. The offender is inappropriate for admission to the program,
15 in the discretion of the judge.

16 C. At the final eligibility hearing, if evidence is presented
17 that was not discovered by the drug court investigation, the
18 district attorney or the defense attorney may make an objection and
19 may ask the court to withdraw the plea agreement previously
20 negotiated. The court shall determine whether to proceed and
21 overrule the objection, to sustain the objection and transfer the
22 case for traditional criminal prosecution or to require further
23 negotiations of the plea or punishment provisions. The decision of
24 the judge for or against eligibility and admission shall be final.

1 D. When the court accepts the treatment plan with the written
2 plea agreement, the offender, upon entering the plea as agreed by
3 the parties, shall be ordered and escorted immediately into the
4 program. The offender must have voluntarily signed the necessary
5 court documents before the offender may be admitted to treatment.

6 The court documents shall include:

7 1. Waiver of the offender's rights to speedy trial;

8 2. A written plea agreement which sets forth the offense
9 charged, the penalty to be imposed for the offense in the event of a
10 breach of the agreement and the penalty to be imposed, if any, in
11 the event of a successful completion of the treatment program;
12 provided, however, incarceration shall be prohibited when the
13 offender completes the treatment program;

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

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

19 E. If admission into the drug court program is denied, the
20 criminal case shall be returned to the traditional criminal docket
21 and shall proceed as provided for any other criminal case.

22 F. At the time an offender is admitted to the drug court
23 program, any bail or undertaking on behalf of the offender shall be
24 exonerated.

1 G. The period of time during which an offender may participate
2 in the active treatment portion of the drug court program shall be
3 not less than six (6) months nor more than twenty-four (24) months
4 and may include a period of supervision not less than six (6) months
5 nor more than one (1) year following the treatment portion of the
6 program. The period of supervision may be extended by order of the
7 court for not more than six (6) months. No treatment dollars shall
8 be expended on the offender during the extended period of
9 supervision. If the court orders that the period of supervision
10 shall be extended, the drug court judge, district attorney, the
11 attorney for the offender and the supervising staff for the drug
12 court program shall evaluate the appropriateness of continued
13 supervision on a quarterly basis. All participating treatment
14 providers shall be certified by the Department of Mental Health and
15 Substance Abuse Services and shall be selected and evaluated for
16 performance-based effectiveness annually by the Department of Mental
17 Health and Substance Abuse Services. Treatment programs shall be
18 designed to be completed within twelve (12) months and shall have
19 relapse prevention and evaluation components.

20 H. The drug court judge shall order the offender to pay court
21 costs, treatment costs, drug testing costs, a program user fee not
22 to exceed Twenty Dollars (\$20.00) per month and necessary
23 supervision fees, unless the offender is indigent. The drug court
24 judge shall establish a schedule for the payment of costs and fees.

1 The cost for treatment, drug testing and supervision shall be set by
2 the treatment and supervision providers respectively and made part
3 of the court's order for payment. User fees shall be set by the
4 drug court judge within the maximum amount authorized by this
5 subsection and payable directly to the court clerk for the benefit
6 and administration of the drug court program. Treatment, drug
7 testing and supervision costs shall be paid to the respective
8 providers. The court clerk shall collect all other costs and fees
9 ordered and deposit such costs and fees with the county treasurer in
10 a drug court fund created and administered pursuant to subsection I
11 of Section 471.1 of this title. The remaining user fees shall be
12 remitted to the State Treasurer by the court clerk for deposit in
13 the Department of Mental Health and Substance Abuse Services' Drug
14 Abuse Education and Treatment Revolving Fund established pursuant to
15 Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders
16 for costs and fees pursuant to this subsection shall not be limited
17 for purposes of collection to the maximum term of imprisonment for
18 which the offender could have been imprisoned for the offense, nor
19 shall any court order for costs and fees be limited by any term of
20 probation, parole, supervision, treatment or extension thereof.
21 Court orders for costs and fees shall remain an obligation of the
22 offender until fully paid; provided, however, once the offender has
23 successfully completed the drug court program, the drug court judge
24 shall have the discretion to expressly waive all or part of the

1 costs and fees provided for in this subsection if, in the opinion of
2 the drug court judge, continued payment of the costs and fees by the
3 offender would create a financial hardship for the offender.

4 Offenders who have not fully paid all costs and fees pursuant to
5 court order but who have otherwise successfully completed the drug
6 court program shall not be counted as an active drug court
7 participant for purposes of drug court contracts or program
8 participant numbers.

9 I. Notwithstanding any other provision of law, if the driving
10 privileges of the offender have been suspended, revoked, canceled or
11 denied by the Department of Public Safety and if the drug court
12 judge determines that no other means of transportation for the
13 offender is available, the drug court judge may enter a written
14 order requiring the Department of Public Safety to stay any and all
15 such actions against the Class D driving privileges of the offender;
16 provided, the stay shall not be construed to grant driving
17 privileges to an offender who has not been issued a driver license
18 by the Department or whose Oklahoma driver license has expired, in
19 which case the offender shall be required to apply for and be found
20 eligible for a driver license, pass all examinations, if applicable,
21 and pay all statutory driver license issuance or renewal fees. The
22 offender shall provide proof of insurance to the drug court judge
23 prior to the judge ordering a stay of any driver license suspension,
24 revocation, cancellation or denial. When a judge of a drug court

1 enters a stay against an order by the Department of Public Safety
2 suspending or revoking the driving privileges of an offender, the
3 time period set in the order by the Department for the suspension or
4 revocation shall continue to run during the stay. When an offender
5 has successfully completed the drug court program, the drug court
6 judge shall maintain jurisdiction over the offender's driving
7 privileges for one (1) year after the date on which the offender
8 graduates from the drug court program.

9 SECTION 13. AMENDATORY 22 O.S. 2021, Section 471.8, is
10 amended to read as follows:

11 Section 471.8. The drug court program may be utilized as a
12 disciplinary sanction for a violation of a condition of parole
13 related to substance abuse for eligible offenses, or in a case where
14 the offender has been tried for an eligible offense in the
15 traditional manner, given either a deferred or suspended sentence,
16 and has violated a condition of the sentence. The judge shall not
17 order an offender into treatment within the scope of any drug court
18 program without prior approval from ~~the designated drug court team,~~
19 ~~or the district attorney if no team is designated. Any judge having~~
20 ~~a criminal case assigned where drug court processing appears to be~~
21 ~~more appropriate for the offender, may request a review of the case~~
22 ~~by the drug court team, or if no team is designated, a review by~~
23 both the district attorney and the defense attorney or offender. If
24 both the district attorney and the defense attorney or offender

1 agree, the case may be transferred to the drug court program with
2 the approval of ~~a designated~~ the presiding drug court judge. After
3 a case has been transferred to the drug court docket, it shall
4 continue with the designated drug court judge until the offender is
5 revoked or released from the program. The offenders whose cases
6 have been transferred from a traditional criminal case docket to the
7 drug court docket shall be required to have a drug court
8 investigation and complete the drug court process prior to placement
9 in any treatment program authorized by ~~this act~~ Section 471 et seq.
10 of this title.

11 SECTION 14. AMENDATORY 22 O.S. 2021, Section 471.10, is
12 amended to read as follows:

13 Section 471.10. A. ~~For purposes of this act, the following~~
14 ~~state agencies shall jointly develop a standardized testing~~
15 ~~instrument with an appropriate scoring device for use by all the~~
16 ~~district courts in this state in implementing the Oklahoma Drug~~
17 ~~Court Act:~~

- 18 1. ~~The Department of Corrections;~~
- 19 2. ~~The Administrative Office of the Courts;~~
- 20 3. ~~The Department of Mental Health and Substance Abuse~~
21 ~~Services;~~
- 22 4. ~~The State Department of Health;~~
- 23 5. ~~The State Department of Education;~~
- 24 6. ~~The Office of Juvenile Affairs; and~~

1 ~~7. The Oklahoma Department of Vocational and Technical~~
2 ~~Education.~~

3 ~~B. The Administrative Office of the Courts shall promulgate~~
4 ~~rules, procedures, and forms necessary to implement the Oklahoma~~
5 ~~Drug Court Act to ensure statewide uniformity in procedures and~~
6 ~~forms. The Department of Mental Health and Substance Abuse Services~~
7 ~~is directed to develop a training and implementation manual for drug~~
8 ~~court programs with the assistance of the State Department of~~
9 ~~Health, the State Department of Education, the Oklahoma Department~~
10 ~~of Career and Technology Education, the Department of Corrections,~~
11 ~~the Office of Juvenile Affairs, and the Administrative Office of the~~
12 ~~Courts. The Department of Mental Health and Substance Abuse~~
13 ~~Services shall provide technical assistance to the district courts~~
14 ~~in implementing drug court programs.~~

15 ~~C. All participating agencies shall promulgate rules as~~
16 ~~necessary to comply with the provisions of this act Section 471 et~~
17 ~~seq. of this title. Each district court shall establish rules for~~
18 ~~their jurisdiction upon implementation of a drug court program,~~
19 ~~pursuant to the provisions of this act.~~

20 SECTION 15. This act shall become effective November 1, 2022.

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