

SENATE CHAMBER  
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 2

\_\_\_\_\_


COMMITTEE AMENDMENT

\_\_\_\_\_

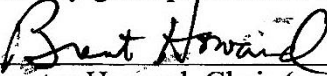
(Date)

I move to amend Senate Bill No. 1548, by substituting the attached floor substitute (Request # 3722) for the title, enacting clause and entire body of the measure.

Submitted by:

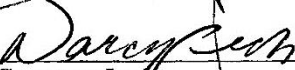
  
\_\_\_\_\_  
Senator Thompson

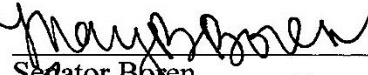
I hereby grant permission for the floor substitute to be adopted.

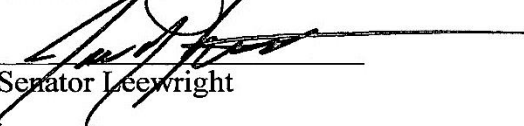
  
\_\_\_\_\_  
Senator Howard, Chair (required)

  
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Senator Floyd

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Senator Daniels

  
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Senator Jeon

  
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Senator Boren

  
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Senator Leewright

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Senator Brooks

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Senator Paxton

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Senator Bullard

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Senator Weaver

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Senator Treat, President Pro Tempore

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Senator McCortney, Majority Floor Leader


Note: Judiciary committee majority requires six (6) members' signatures.

I hereby grant permission for the floor substitute to be adopted.

  
\_\_\_\_\_  
Senator Thompson  
Appropriations Committee Chair

Thompson-TEK-FS-SB1548  
3/15/2022 2:21 PM

(Floor Amendments Only)

Date and Time Filed: 3-15-22 2:33 pm 

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1548

By: Thompson of the Senate

and

Hilbert of the House

7  
8 FLOOR SUBSTITUTE

9 [ criminal procedure - Oklahoma Drug Court Act -  
10 establish drug court program - requirements for  
11 initial hearing - drug court investigation report -  
12 effective date ]

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

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

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

21 B. Each ~~district court~~ county of this state is authorized to  
22 establish a drug court program pursuant to the provisions of the  
23 Oklahoma Drug Court Act, subject to availability of funds. ~~Juvenile~~  
24 ~~drug courts may be established based upon the provisions of the~~

1 ~~Oklahoma Drug Court Act; provided, however, juveniles shall not be~~  
2 ~~held, processed or treated in any manner which violates any~~  
3 ~~provision of Title 10A of the Oklahoma Statutes~~

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

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

12 3. Upon signing the contract, the board of county commissioners  
13 shall designate the drug court coordinator. The county may identify  
14 the program coordinator as a county employee or enter into a  
15 subcontract with a court services subcontractor to provide the  
16 coordinator position. If additional staff positions are necessary  
17 to support the program, the county may identify additional county  
18 employee positions to serve as drug court staff, subcontract with  
19 its court services subcontractor to provide one or more drug court  
20 program staff, or use a combination of county employees and staff  
21 provided through the subcontractor. Nothing in this paragraph shall  
22 be construed to prohibit personnel from other private entities or  
23 state agencies from serving as drug court support staff as approved  
24 by the board of county commissioners. All staff shall be under the

1 supervision of the drug court coordinator when performing duties  
2 related to the drug court program.

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

10 5. The county, or the county's designated court services  
11 subcontractor, shall provide administrative support and oversight  
12 for the drug court program and the drug court program staff. Such  
13 administrative support and oversight shall include:

14 a. employing and supervising the drug court coordinator  
15 and any other staff who are assigned to support the  
16 drug court program, and

17 b. communicating with DMHSAS as required by the  
18 administrative contract, to monitor the performance  
19 and success of the drug court program based upon  
20 established formulas, case load statistics, and  
21 performance metrics.

22 ~~C. Drug court programs shall not apply to any violent criminal~~  
23 ~~offense.~~ Eligible offenses may further be restricted by the rules  
24 of the specific drug court program. Nothing in the Oklahoma Drug

1 Court Act shall be construed to require a drug court to consider  
2 every offender with a treatable condition or addiction even if the  
3 controlling offense is eligible for consideration in the program.  
4 Traditional prosecution shall be required where an offender is  
5 determined not appropriate for the drug court program. Juvenile  
6 drug courts may be established based upon the provisions of the  
7 Oklahoma Drug Court Act; provided, however, a juvenile shall not be  
8 held, processed, or treated in any manner which violates any  
9 provision of Title 10A of the Oklahoma Statutes.

10 D. Drug court programs shall require a separate judicial  
11 processing system differing in practice and design from the  
12 traditional adversarial criminal prosecution and trial systems.  
13 Whenever possible, a drug court team shall be designated consisting  
14 of a judge to ~~administer~~ preside over the drug court judicial  
15 process and hold proceedings where participants are advanced through  
16 the program, a district attorney, a defense attorney, a drug court  
17 coordinator, and other persons designated by the drug court team who  
18 shall have appropriate understanding of the goals of the program and  
19 of the appropriate treatment methods for the various conditions.  
20 The assignment of any person to the drug court team shall not  
21 preclude the assigned person from performing other duties required  
22 in the course of their office or employment. The chief judge of the  
23 judicial district, or if the district has more than one chief judge  
24 then the presiding judge of the Administrative Judicial District,

1 shall designate one or more judges to ~~administer~~ preside over cases  
2 assigned to the drug court program. The assignment of any judge to  
3 a drug court program or the designation of a drug court docket shall  
4 not mandate the assignment of all substance abuse-related cases to  
5 the drug court docket or the program; however, nothing in the  
6 Oklahoma Drug Court Act shall be construed to preclude the  
7 assignment of all criminal cases relating to substance abuse or drug  
8 possession as provided by the rules established for the specific  
9 drug court program. Judicial immunity shall extend to any duty  
10 required by law to be performed by a judge of a drug court.

11 E. When a drug court program is established, the arresting  
12 officer shall file the criminal case record for potentially eligible  
13 offenders with the district attorney within four (4) days of the  
14 arrest. The district attorney shall file an information in the case  
15 within twenty-four (24) hours of receipt of the criminal case record  
16 when the offender appears eligible for consideration for the  
17 program. The information may be amended as necessary when an  
18 offender is denied admittance into the drug court program or for  
19 other purposes as provided in Section 304 of this title. Any person  
20 arrested upon a warrant for his or her arrest shall not be eligible  
21 for the drug court program without the approval of the district  
22 attorney. Any criminal case which has been filed and processed in  
23 the traditional manner shall be cross-referenced to a drug court  
24 case file by the court clerk if the case is subsequently assigned to

1 the drug court program. The originating criminal case file shall  
2 remain open to public inspection. The judge shall determine what  
3 information or pleadings are to be retained in the drug court case  
4 file, which shall be closed to public inspection.

5 F. The court may request assistance from the Department of  
6 Mental Health and Substance Abuse Services which shall be the  
7 primary agency to assist in developing and implementing a drug court  
8 program or from any state or local agency in obtaining the necessary  
9 treatment services which will assure maximum opportunity for  
10 successful treatment, education and rehabilitation for offenders  
11 admitted to the program. All participating state and local agencies  
12 are directed to coordinate with each other and cooperate in  
13 assisting the ~~district court~~ county in establishing a drug court  
14 program.

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

- 17 1. Strong linkage between participating agencies;
- 18 2. Access by all participating parties of a case to information  
19 on the progress of the offender;
- 20 3. Vigilant supervision and monitoring procedures;
- 21 4. Random substance abuse testing;
- 22 5. Provisions for noncompliance, modification of the treatment  
23 plan and revocation proceedings;

24

1       6. Availability of residential treatment facilities and  
2 outpatient services;

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

5       8. Methods for measuring application of disciplinary sanctions  
6 including provisions for:

7           a. increased supervision,

8           b. urinalysis testing,

9           c. intensive treatment,

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

11          e. recycling the offender into the program after a  
12 disciplinary action for a minimum violation of the  
13 treatment plan,

14          f. reinstating the offender into the program after a  
15 disciplinary action for a major violation of the  
16 treatment plan, and

17          g. revocation from the program; and

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

20       H. All drug court programs shall be required to keep reliable  
21 data on recidivism, relapse, restarts, sanctions imposed and  
22 incentives given.

23       I. All funds received by ~~a drug court, in its capacity as a~~ the  
24 county for the drug court program, shall be credited to and



1 accounted for in the county treasurer's office in a special cash  
2 fund to be known as the "Drug Court Fund". Each drug court fund  
3 shall be a continuing fund, not subject to fiscal year limitations,  
4 and shall be dedicated to the operation of the drug court as  
5 authorized by law. The expenditures of any funds received by a drug  
6 court program and deposited with the county treasurer shall be made  
7 only upon sworn itemized claims approved by the county clerk, filed  
8 with the county treasurer and paid by cash voucher drawn by the  
9 county treasurer from the funds.

10 J. Nothing in this section shall prohibit any county from  
11 establishing a drug court for misdemeanor offenses. Such  
12 misdemeanor drug courts shall follow the rules and regulations of  
13 felony drug courts except that the penalty for revocation shall not  
14 exceed one (1) year in the county jail or the maximum penalty for  
15 the misdemeanor allowed by statute, whichever is less. The  
16 Department of Mental Health and Substance Abuse Services shall  
17 provide technical assistance to the counties that establish  
18 misdemeanor drug courts.

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

21 Section 471.2. A. The opportunity for review of an offender  
22 for a drug court program shall occur at any time prior to  
23 disposition of the case and sentencing of the offender, including  
24

1 sentencing on a petition to revoke a suspended sentence or any  
2 probation violation.

3 B. When a drug court is established, the following information  
4 shall be initially reviewed by the sheriff or designee, if the  
5 offender is held in a county jail, or by the chief of police or  
6 designee, if the offender is held in a city jail:

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

11 2. The offender has no prior felony conviction in this state or  
12 another state for a ~~violent~~ domestic violence offense within the  
13 last ten (10) years, except as may be allowed in a domestic violence  
14 treatment program authorized by the drug court program. It shall be  
15 sufficient for this paragraph that a criminal history records name  
16 search was conducted and indicated no apparent ~~violent~~ domestic  
17 violence offense. An offender admitted to the drug court program  
18 for a crime which requires the offender to attend a batterers'  
19 intervention program certified by the Attorney General's office  
20 shall be required to undergo such treatment as a condition of drug  
21 court;

22 3. 2. The offender's ~~arrest or~~ charge does not involve a  
23 violation of the Trafficking In Illegal Drugs Act;

24

1       4. 3. The offender has committed a felony offense or a  
2 misdemeanor offense where a misdemeanor drug court is authorized;  
3 and

4       ~~5.~~ 4. The offender:

- 5           a. admits to having a substance abuse addiction,
- 6           b. appears to have a substance abuse addiction,
- 7           c. is known to have a substance abuse addiction,
- 8           d. the arrest or charge is based upon an offense eligible  
9                 for the drug court program, or
- 10          e. is a person who has had an assessment authorized by  
11                 Section 3-704 of Title 43A of the Oklahoma Statutes or  
12                 drug court investigation and the assessment or  
13                 investigation recommends the drug court program.

14       ~~B.~~ C. If it appears to the reviewing officer that the offender  
15 may be potentially eligible for the drug court program based upon a  
16 review of the information in subsection ~~A~~ B of this section, the  
17 offender shall be given an eligibility form which may be voluntarily  
18 completed by the offender, and the reviewing officer shall file the  
19 criminal case record within the time prescribed in subsection E of  
20 Section 471.1 of this title. ~~The offender shall not automatically~~  
21 ~~be considered for the program based upon this review.~~ The offender  
22 ~~must~~ may request consideration for the drug court program as  
23 provided in subsection ~~C~~ D of this section ~~and shall have approval~~  
24 ~~from the district attorney before being considered for the drug~~

1 ~~court program~~. The eligibility form shall describe the drug court  
2 program for which the offender may be eligible, including, but not  
3 limited to:

4 1. A full description of the drug court process and  
5 investigation;

6 2. A general explanation of the roles and authority of the  
7 supervising staff, the district attorney, the defense attorney, the  
8 treatment provider, the offender, and the judge presiding over the  
9 cases in the drug court program;

10 3. A clear statement that the drug court judge may decide after  
11 a hearing not to consider the offender for the drug court program  
12 and in that event the offender will be prosecuted in the traditional  
13 manner;

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

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

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

24 a. waive the right to a speedy trial,

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

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

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

9. A clear statement that during participation in the drug 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

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

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

6 a. if the offender is incarcerated, the offender must  
7 sign and complete the eligibility form and return it  
8 to the sheriff, if the offender is held in the county  
9 jail; or to the chief of police, if the offender is  
10 held in a city jail. The sheriff or chief of police,  
11 upon receipt of the completed eligibility form, shall  
12 file the form with the ~~district attorney at the time~~  
13 ~~of filing the criminal case record or at any time~~  
14 ~~during the period of incarceration when the offender~~  
15 ~~completes the form after the criminal case record has~~  
16 ~~been filed~~ drug court coordinator who shall forward  
17 the form to the district attorney and the judge  
18 assigned to the offender's case, or

19 b. after release of the offender from incarceration, the  
20 offender must sign and complete the eligibility form  
21 and file it with the ~~district attorney~~ drug court  
22 coordinator or the court, prior to or at the time of  
23 either initial appearance or arraignment. The drug  
24 court coordinator shall forward the form to the

1           district attorney and the judge assigned to the  
2           offender's case.

3           2. Any offender desiring legal consultation prior to signing or  
4 completing the form for consideration in a drug court program shall  
5 be referred to the defense attorney of the drug court team, or a  
6 public defender, if the offender is indigent, or allowed to consult  
7 with private legal counsel.

8           3. Nothing contained in the provisions of this subsection shall  
9 prohibit the drug court from considering any offender deemed  
10 eligible for the program at any time prior to sentencing whose case  
11 has been prosecuted in the traditional manner, or upon a violation  
12 of parole or probation conditions relating to substance abuse, upon  
13 recommendation of the district attorney as provided in Section 471.8  
14 of this title.

15           ~~D. E.~~ When an offender has filed a ~~voluntary~~ request to be  
16 considered for a drug court program ~~on the appropriate form, the~~  
17 ~~district attorney shall indicate his or her approval of the request~~  
18 ~~by filing the form with the drug court judge. Upon the filing of~~  
19 ~~the request form by the district attorney,~~ an initial hearing shall  
20 be set before the drug court judge. The hearing shall be not less  
21 than three (3) work days nor more than five (5) work days after the  
22 date of the filing of the request form. Notice of the hearing shall  
23 be given to the drug court team, or in the event no drug court team  
24 is designated, to the offender, the district attorney, and to the

1 public defender. The offender shall be required to notify any  
2 private legal counsel of the date and time of the hearing.

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

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

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

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

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

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

19 B. If the offender voluntarily consents to be considered for  
20 the drug court program, and has signed and filed the required form  
21 requesting consideration, and no objection has been made by the  
22 district attorney, the court ~~shall~~ may refer the offender for a drug  
23 court investigation as provided in Section 471.4 of this title, and

24



1 set a date for a hearing to determine final eligibility for  
2 admittance into the program.

3 C. Upon any objection of the district attorney for  
4 consideration of an offender for the program, the court shall deny  
5 consideration of the offender's request for participation in the  
6 drug court program. Upon denial for consideration in the drug court  
7 program at the initial hearing, the criminal case shall proceed in  
8 the traditional manner. ~~An objection by the district attorney and~~  
9 ~~the subsequent~~ A denial of consideration of the offender for the  
10 program shall not preclude any future consideration of the offender  
11 for the drug court program with the approval of the district  
12 attorney.

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

15 Section 471.4. A. Each drug court team shall develop agreed-  
16 upon, objective eligibility criteria to determine presumptive drug  
17 court eligibility for offenders. The objective criteria shall be in  
18 writing and communicated to potential referral sources including but  
19 not limited to judges, law enforcement, defense attorneys,  
20 prosecutors, treatment professionals, and community supervision  
21 officers. The criteria shall target high-risk and high-need  
22 offenders who are addicted to illicit drugs or alcohol and who are  
23 at a substantial risk for reoffending or failing to complete a less  
24

1 intensive case disposition such as standard probation or pretrial  
2 supervision.

3 B. When ~~directed by~~ the drug court judge, district attorney,  
4 defense attorney, drug court coordinator, treatment provider, or any  
5 other drug court team member determines that further investigation  
6 of the offender under consideration is appropriate, the supervising  
7 staff for the drug court program shall make an investigation ~~of the~~  
8 ~~offender under consideration~~ to determine whether ~~or not~~ the  
9 offender is a person who:

10 1. Is presumptively eligible for the drug court program;

11 2. Would benefit from the drug court program; and

12 ~~2.~~ 3. Is appropriate for the drug court program and there is  
13 not a more appropriate less restrictive treatment alternative based  
14 upon the risk and need levels of the offender.

15 ~~B.~~ C. The drug court investigation shall be conducted through a  
16 standardized screening test and personal interview. A more  
17 comprehensive assessment may take place at the time the offender  
18 enters the treatment portion of the program and may take place at  
19 any time after placement in the drug court program. The  
20 investigation shall determine the original treatment plan which the  
21 offender will be required to follow, if admitted to the program.  
22 Any subsequent assessments or evaluations by the treatment provider,  
23 if the offender is admitted to the program, may be used to determine  
24 modifications needed to the original treatment plan. The

1 investigation shall include, but not be limited to, the following  
2 information:

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

12 ~~C.~~ D. The drug court investigation may be conducted before or  
13 after the initial hearing for consideration but shall occur before  
14 the hearing for final determination of eligibility for the drug  
15 court program. When an offender is appropriate for admittance to  
16 the program, the supervising staff shall make a recommendation for  
17 the treatment program or programs that are available in the  
18 jurisdiction and which would benefit the offender and accept the  
19 offender. The investigation findings and recommendations for  
20 program placement shall be reported to the drug court judge, the  
21 district attorney, the offender, and the defense attorney prior to  
22 the next scheduled hearing.

23 ~~D.~~ E. The district attorney and the defense attorney for the  
24 offender shall independently review the findings and recommendations

1 of the drug court investigation report. For an offender to remain  
2 eligible for consideration in the program, both the district  
3 attorney and the defense attorney ~~must accept the recommended~~  
4 ~~treatment plan,~~ and shall negotiate the terms of the written plea  
5 agreement with all punishment provisions specified ~~before~~ prior to  
6 the scheduled hearing date for determining final eligibility. Upon  
7 failure of the district attorney and defense attorney to negotiate  
8 the written plea agreement, the judge presiding over the case may  
9 order the criminal case shall to be withdrawn from the drug court  
10 program and processed in the traditional manner. The punishment  
11 provisions of the written plea agreement shall emphasize reparation  
12 to the victim, community, and state. If the crime for which the  
13 offender is seeking eligibility to drug court involves a victim,  
14 notification to the victim shall be in compliance with subsection A  
15 of Section 34 of Article II of the Oklahoma Constitution and the  
16 Oklahoma Victim's Rights Act, Section 142A et seq. of Title 21 of  
17 the Oklahoma Statutes, and shall include the right to provide  
18 victim's impact statements.

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

23 G. The drug court coordinator shall keep a record of all  
24 presumptively eligible offenders who are not placed in the drug

1 court program. The record shall indicate the reason each offender  
2 was not placed in the program and information about the ultimate  
3 case disposition for each offender. The record shall be made  
4 available to all members of the drug court team.

5 F. H. For purposes of ~~this act~~ Section 471 et seq. of this  
6 title, "supervising staff" means a Department of Corrections  
7 employee assigned to monitor offenders in the drug court program, a  
8 ~~community provider assigned to monitor offenders in the program,~~ a  
9 state, ~~or local agency~~ county, or municipal governmental  
10 representative, ~~or~~ a certified treatment provider participating in  
11 the program, or a CLEET-certified person designated by the ~~judge~~  
12 drug court program to perform drug court investigations.

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

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

18 1. Whether the offender voluntarily consents to the program  
19 requirements;

20 2. Whether to accept the offender based upon the findings and  
21 recommendations of the drug court investigation authorized by  
22 Section 471.4 of this title;

23 3. Whether there is a written plea agreement, and if so,  
24 whether the terms and conditions of the written negotiated plea

1 between the district attorney, the defense attorney and the offender  
2 are appropriate and consistent with the penalty provisions and  
3 conditions of other similar cases;

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

7 5. Any information relevant to determining eligibility;  
8 provided, however, an offender shall not be denied admittance to any  
9 drug court program based upon an inability to pay court costs or  
10 other costs or fees.

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

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

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

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

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

24

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

3           C. At the final eligibility hearing, if evidence is presented  
4 that was not discovered by the drug court investigation, the  
5 district attorney or the defense attorney may make an objection and  
6 may ask the court to withdraw the plea agreement previously  
7 negotiated. The court shall determine whether to proceed and  
8 overrule the objection, to sustain the objection and transfer the  
9 case for traditional criminal prosecution or to require further  
10 negotiations of the plea or punishment provisions. The decision of  
11 the judge for or against eligibility and admission shall be final.

12           D. When the court accepts the treatment plan with the written  
13 plea agreement, the offender, upon entering the plea as agreed by  
14 the parties, shall be ordered and escorted immediately into the  
15 program. The offender must have voluntarily signed the necessary  
16 court documents before the offender may be admitted to treatment.  
17 The court documents shall include:

- 18           1. Waiver of the offender's rights to speedy trial;
- 19           2. A written plea agreement which sets forth the offense  
20 charged, the penalty to be imposed for the offense in the event of a  
21 breach of the agreement and the penalty to be imposed, if any, in  
22 the event of a successful completion of the treatment program;  
23 provided, however, incarceration shall be prohibited when the  
24 offender completes the treatment program;

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

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

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

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

12 G. The period of time during which an offender may participate  
13 in the active treatment portion of the drug court program shall be  
14 not less than six (6) months nor more than twenty-four (24) months  
15 and may include a period of supervision not less than six (6) months  
16 nor more than one (1) year following the treatment portion of the  
17 program. The period of supervision may be extended by order of the  
18 court for not more than six (6) months. No treatment dollars shall  
19 be expended on the offender during the extended period of  
20 supervision. If the court orders that the period of supervision  
21 shall be extended, the drug court judge, district attorney, the  
22 attorney for the offender and the supervising staff for the drug  
23 court program shall evaluate the appropriateness of continued  
24 supervision on a quarterly basis. All participating treatment



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

7 H. The drug court judge shall order the offender to pay court  
8 costs, treatment costs, drug testing costs, a program user fee not  
9 to exceed Twenty Dollars (\$20.00) per month and necessary  
10 supervision fees, unless the offender is indigent. The drug court  
11 judge shall establish a schedule for the payment of costs and fees.  
12 The cost for treatment, drug testing and supervision shall be set by  
13 the treatment and supervision providers respectively and made part  
14 of the court's order for payment. User fees shall be set by the  
15 drug court judge within the maximum amount authorized by this  
16 subsection and payable directly to the court clerk for the benefit  
17 and administration of the drug court program. Treatment, drug  
18 testing and supervision costs shall be paid to the respective  
19 providers. The court clerk shall collect all other costs and fees  
20 ordered and deposit such costs and fees with the county treasurer in  
21 a drug court fund created and administered pursuant to subsection I  
22 of Section 471.1 of this title. The remaining user fees shall be  
23 remitted to the State Treasurer by the court clerk for deposit in  
24 the Department of Mental Health and Substance Abuse Services' Drug

1 Abuse Education and Treatment Revolving Fund established pursuant to  
2 Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders  
3 for costs and fees pursuant to this subsection shall not be limited  
4 for purposes of collection to the maximum term of imprisonment for  
5 which the offender could have been imprisoned for the offense, nor  
6 shall any court order for costs and fees be limited by any term of  
7 probation, parole, supervision, treatment or extension thereof.  
8 Court orders for costs and fees shall remain an obligation of the  
9 offender until fully paid; provided, however, once the offender has  
10 successfully completed the drug court program, the drug court judge  
11 shall have the discretion to expressly waive all or part of the  
12 costs and fees provided for in this subsection if, in the opinion of  
13 the drug court judge, continued payment of the costs and fees by the  
14 offender would create a financial hardship for the offender.  
15 Offenders who have not fully paid all costs and fees pursuant to  
16 court order but who have otherwise successfully completed the drug  
17 court program shall not be counted as an active drug court  
18 participant for purposes of drug court contracts or program  
19 participant numbers.

20 I. Notwithstanding any other provision of law, if the driving  
21 privileges of the offender have been suspended, revoked, canceled or  
22 denied by the Department of Public Safety and if the drug court  
23 judge determines that no other means of transportation for the  
24 offender is available, the drug court judge may enter a written

1 order requiring the Department of Public Safety to stay any and all  
2 such actions against the Class D driving privileges of the offender;  
3 provided, the stay shall not be construed to grant driving  
4 privileges to an offender who has not been issued a driver license  
5 by the Department or whose Oklahoma driver license has expired, in  
6 which case the offender shall be required to apply for and be found  
7 eligible for a driver license, pass all examinations, if applicable,  
8 and pay all statutory driver license issuance or renewal fees. The  
9 offender shall provide proof of insurance to the drug court judge  
10 prior to the judge ordering a stay of any driver license suspension,  
11 revocation, cancellation or denial. When a judge of a drug court  
12 enters a stay against an order by the Department of Public Safety  
13 suspending or revoking the driving privileges of an offender, the  
14 time period set in the order by the Department for the suspension or  
15 revocation shall continue to run during the stay. When an offender  
16 has successfully completed the drug court program, the drug court  
17 judge shall maintain jurisdiction over the offender's driving  
18 privileges for one (1) year after the date on which the offender  
19 graduates from the drug court program.

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

22 Section 471.8. The drug court program may be utilized as a  
23 disciplinary sanction for a violation of a condition of parole  
24 related to substance abuse for eligible offenses, or in a case where

1 the offender has been tried for an eligible offense in the  
2 traditional manner, given either a deferred or suspended sentence,  
3 and has violated a condition of the sentence. The judge shall not  
4 order an offender into treatment within the scope of any drug court  
5 program without prior approval from ~~the designated drug court team,~~  
6 ~~or the district attorney if no team is designated.~~ Any judge having  
7 ~~a criminal case assigned where drug court processing appears to be~~  
8 ~~more appropriate for the offender, may request a review of the case~~  
9 ~~by the drug court team, or if no team is designated, a review by~~  
10 both the district attorney and the defense attorney or offender. If  
11 both the district attorney and the defense attorney or offender  
12 agree, the case may be transferred to the drug court program with  
13 the approval of ~~a designated~~ the presiding drug court judge. After  
14 a case has been transferred to the drug court docket, it shall  
15 continue with the designated drug court judge until the offender is  
16 revoked or released from the program. The offenders whose cases  
17 have been transferred from a traditional criminal case docket to the  
18 drug court docket shall be required to have a drug court  
19 investigation and complete the drug court process prior to placement  
20 in any treatment program authorized by ~~this act~~ Section 471 et seq.  
21 of this title.

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

24

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

6 ~~1. The Department of Corrections;~~

7 ~~2. The Administrative Office of the Courts;~~

8 ~~3. The Department of Mental Health and Substance Abuse~~  
9 ~~Services;~~

10 ~~4. The State Department of Health;~~

11 ~~5. The State Department of Education;~~

12 ~~6. The Office of Juvenile Affairs; and~~

13 ~~7. The Oklahoma Department of Vocational and Technical~~  
14 ~~Education.~~

15 ~~B. The Administrative Office of the Courts shall promulgate~~  
16 ~~rules, procedures, and forms necessary to implement the Oklahoma~~  
17 ~~Drug Court Act to ensure statewide uniformity in procedures and~~  
18 ~~forms. The Department of Mental Health and Substance Abuse Services~~  
19 ~~is directed to develop a training and implementation manual for drug~~  
20 ~~court programs with the assistance of the State Department of~~  
21 ~~Health, the State Department of Education, the Oklahoma Department~~  
22 ~~of Career and Technology Education, the Department of Corrections,~~  
23 ~~the Office of Juvenile Affairs, and the Administrative Office of the~~  
24 ~~Courts. The Department of Mental Health and Substance Abuse~~

1 ~~Services shall provide technical assistance to the district courts~~  
2 ~~in implementing drug court programs.~~

3 ~~€.~~ All participating agencies shall promulgate rules as  
4 necessary to comply with the provisions of ~~this act~~ Section 471 et  
5 seq. of this title. ~~Each district court shall establish rules for~~  
6 ~~their jurisdiction upon implementation of a drug court program,~~  
7 ~~pursuant to the provisions of this act.~~

8 SECTION 8. This act shall become effective November 1, 2022.

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