

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 2290

By: O'Donnell

4
5
6 AS INTRODUCED

7 An Act relating to drug and mental health court;
8 amending 22 O.S. 2011, Sections 471.1, as amended by
9 Section 1, Chapter 222, O.S.L. 2016, 471.2, as last
10 amended by Section 2, Chapter 222, O.S.L. 2016,
11 471.3, 471.6, as last amended by Section 1, Chapter
12 393, O.S.L. 2016, 471.7 and 471.9, as amended by
13 Section 2, Chapter 393, O.S.L. 2016 (22 O.S. Supp.
14 2016, Sections 471.1, 471.2, 471.6 and 471.9), which
15 relate to the Oklahoma Drug Court Act; expanding
16 parameters of drug court program objectives;
17 providing for external evaluations of drug court
18 programs; modifying list of offender information to
19 be reviewed by law enforcement; deleting approval
20 requirement from drug court consideration process;
21 prohibiting offenders deemed low risk from admission
22 into drug court program; providing for the
23 reassessment of offenders at revocation hearings;
24 allowing introduction of alternative treatment plan
in lieu of revocation; authorizing revocation under
certain circumstances; providing sentencing options
for certain offenders who successfully complete drug
court program; amending 22 O.S. 2011, Section 472, as
amended by Section 1, Chapter 180, O.S.L. 2014 (22
O.S. Supp. 2016, Section 472), which relates to the
Anna McBride Act; providing sentencing options for
certain offenders who successfully complete mental
health court program; and providing an effective
date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as
2 amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2016,
3 Section 471.1), is amended to read as follows:

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

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

15 C. Drug court programs shall not apply to any violent criminal
16 offense. Eligible offenses may further be restricted by the rules
17 of the specific drug court program. Nothing in this act shall be
18 construed to require a drug court to consider every offender with a
19 treatable condition or addiction, regardless of the fact that the
20 controlling offense is eligible for consideration in the program.
21 Traditional prosecution shall be required where an offender is
22 determined not appropriate for the drug court program.

23 D. Drug court programs shall require a separate judicial
24 processing system differing in practice and design from the

1 traditional adversarial criminal prosecution and trial systems.
2 Whenever possible, a drug court team shall be designated consisting
3 of a judge to administer the program, a district attorney, a defense
4 attorney, 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 than the presiding judge of the Administrative Judicial District,
12 shall designate one or more judges to administer the drug court
13 program. The assignment of any judge to a drug court program or the
14 designation of a drug court docket shall not mandate the assignment
15 of all substance abuse related cases to the drug court docket or the
16 program; however, nothing in this act shall be construed to preclude
17 the assignment of all criminal cases relating to substance abuse or
18 drug possession as provided by the rules established for the
19 specific drug court program.

20 E. When a drug court program is established, the arresting
21 officer shall file the criminal case record for potentially eligible
22 offenders with the district attorney within four (4) days of the
23 arrest. The district attorney shall file an information in the case
24 within twenty-four (24) hours of receipt of the criminal case record

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

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

23 G. Each drug court program shall ensure, but not be limited to:

24 1. Strong linkage between participating agencies;

- 1 2. Access by all participating parties of a case to information
2 on the progress of the offender;
- 3 3. Vigilant supervision and monitoring procedures;
- 4 4. Participation is restricted to medium or high risk offenders
5 assessed with moderate or high treatment needs;
- 6 5. The use of evidence-based interventions proven to reduce
7 dependency on drugs or alcohol or both;
- 8 6. Random substance abuse testing;
- 9 ~~5.~~ 7. Provisions for noncompliance, modification of the
10 treatment plan, and revocation proceedings;
- 11 ~~6.~~ 8. Availability of residential treatment facilities and
12 outpatient services;
- 13 ~~7.~~ 9. Payment of court costs, treatment costs, supervision
14 fees, and program user fees by the offender;
- 15 ~~8.~~ 10. Methods for measuring application of disciplinary
16 sanctions, including provisions for:
- 17 a. increased supervision,
18 b. urinalysis testing,
19 c. intensive treatment,
20 d. short-term confinement not to exceed five (5) days,
21 e. recycling the offender into the program after a
22 disciplinary action for a minimum violation of the
23 treatment plan,
- 24

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.~~ 11. 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. 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 Every three (3) years, an external evaluation shall be conducted
20 to assess the effectiveness of the statewide and individual drug
21 court programs in adhering to key components established by
22 nationally recognized drug court program professionals.

1 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.2, as
2 last amended by Section 2, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
3 2016, Section 471.2), is amended to read as follows:

4 Section 471.2 A. The initial opportunity for review of an
5 offender for a drug court program shall occur within four (4) days
6 after the arrest and detention or incarceration of the offender in
7 the city or county jail, or if an immediate bond release program is
8 available through the jail, the initial opportunity for review shall
9 occur in conjunction with the bond release program. When a drug
10 court is established, the following information shall be initially
11 reviewed by the sheriff or designee, if the offender is held in a
12 county jail, or by the chief of police or designee, if the offender
13 is held in a city jail:

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

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

24

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

3 4. The offender has committed a felony offense; ~~and~~

4 5. 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 of the offender is based upon an
9 offense eligible for the drug court program, ~~or~~

10 f. ~~is a person who~~; and

11 6. The offender has had an assessment authorized by Section 3-
12 704 of Title 43A of the Oklahoma Statutes ~~and~~, the assessment
13 indicates the offender has a high or moderate risk to reoffend with
14 a high treatment need and the assessment recommends the drug court
15 program. Any offender determined to have a low risk to reoffend
16 shall not be eligible for participation in the drug court program.

17 B. If it appears to the reviewing officer that the offender may
18 be potentially eligible for the drug court program based upon a
19 review of the information in subsection A of this section, the
20 offender shall be given an eligibility form which may be voluntarily
21 completed by the offender, and the reviewing officer shall file the
22 criminal case record within the time prescribed in subsection E of
23 Section 471.1 of this title. The offender shall not automatically
24 be considered for the program based upon this review. The offender

1 must request consideration for the drug court program as provided in
2 subsection C of this section ~~and shall have approval from the~~
3 ~~district attorney~~ before being considered for the drug court
4 program. The eligibility form shall describe the drug court program
5 for which the offender may be eligible, including, but not limited
6 to:

7 1. A full description of the drug court process and
8 investigation;

9 2. A general explanation of the roles and authority of the
10 supervising staff, the district attorney, the defense attorney, the
11 treatment provider, the offender, and the judge in the drug court
12 program;

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

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

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

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

- 3 a. waive the right to a speedy trial,
- 4 b. waive the right to a preliminary hearing,
- 5 c. the terms and conditions of a treatment plan, and
- 6 d. sign a performance contract with the court;

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

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

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

- 20 a. fail to comply with the terms of the agreements,
- 21 b. be convicted of a misdemeanor offense which reflects a
22 propensity for violence,
- 23 c. be arrested for a violent felony offense, or
- 24 d. be convicted of any felony offense,

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

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

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

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

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

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

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

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

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 471.3, is
2 amended to read as follows:

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

6 1. The offender has approval to be considered for the drug
7 court program;

8 2. The offender has been admitted to the program within the
9 preceding five (5) years; and

10 3. Any statutory preclusion, other prohibition, or program
11 limitation exists and is applicable to considering the offender for
12 the program.

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

15 B. If the offender voluntarily consents to be considered for
16 the drug court program, has signed and filed the required form
17 requesting consideration, ~~and no objection has been made by the~~
18 ~~district attorney,~~ the court shall refer the offender for a drug
19 court investigation as provided in Section ~~5~~ 471.4 of this ~~act~~
20 title, and set a date for a hearing to determine final eligibility
21 for admittance into the program.

22 C. Upon any objection of the district attorney for
23 consideration of an offender for the program, the court shall deny
24 consideration of the ~~offender's~~ request for participation in the

1 drug court program. Upon denial for consideration in the drug court
2 program at the initial hearing, the criminal case shall proceed in
3 the traditional manner. An objection by the district attorney and
4 the subsequent denial of consideration of the offender for the
5 program shall not preclude any future consideration of the offender
6 for the drug court program with the approval of the district
7 attorney.

8 SECTION 4. AMENDATORY 22 O.S. 2011, Section 471.6, as
9 last amended by Section 1, Chapter 393, O.S.L. 2016 (22 O.S. Supp.
10 2016, Section 471.6), is amended to read as follows:

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

14 1. Whether or not the offender voluntarily consents to the
15 program requirements;

16 2. Whether or not to accept the offender based upon the
17 findings and recommendations of the drug court investigation
18 authorized by Section 471.4 of this title;

19 3. Whether or not there is a written plea agreement, and if so,
20 whether the terms and conditions of the written negotiated plea
21 between the district attorney, the defense attorney, and the
22 offender are appropriate and consistent with the penalty provisions
23 and conditions of other similar cases;

24

1 4. Whether or not there is an appropriate treatment program
2 available to the offender and whether or not there is a recommended
3 treatment plan; and

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

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

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

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

15 3. The treatment program is unwilling to accept the offender;

16 4. The offender is assessed as low risk;

17 5. The offender was ineligible for consideration by the nature
18 of a violent offense at the time of arrest, and the charge has been
19 modified to meet the eligibility criteria of the program; or

20 ~~5.~~ 6. The offender is inappropriate for admission to the
21 program, in the discretion of the judge.

22 C. At the final eligibility hearing, if evidence is presented
23 that was not discovered by the drug court investigation, the
24 district attorney or the defense attorney may make an objection and

1 may ask the court to withdraw the plea agreement previously
2 negotiated. The court shall determine whether to proceed and
3 overrule the objection, to sustain the objection and transfer the
4 case for traditional criminal prosecution, or to require further
5 negotiations of the plea or punishment provisions. The decision of
6 the judge for or against eligibility and admission shall be final.

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

- 13 1. Waiver of the offender's rights to speedy trial;
- 14 2. A written plea agreement which sets forth the offense
15 charged, the penalty to be imposed for the offense in the event of a
16 breach of the agreement, and the ~~penalty to be imposed, if any,~~
17 possible outcomes in the event of a successful completion of the
18 treatment program; provided, however, incarceration shall be
19 prohibited when the offender completes the treatment program;
- 20 3. A written treatment plan which is subject to modification at
21 any time during the program; and
- 22 4. A written performance contract requiring the offender to
23 enter the treatment program as directed by the court and participate
24 until completion, withdrawal, or removal by the court.

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

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

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

1 designed to be completed within twelve (12) months and shall have
2 relapse prevention and evaluation components.

3 H. The drug court judge shall order the offender to pay court
4 costs, treatment costs, drug testing costs, a program user fee not
5 to exceed Twenty Dollars (\$20.00) per month, and necessary
6 supervision fees, unless the offender is indigent. The drug court
7 judge shall establish a schedule for the payment of costs and fees.
8 The cost for treatment, drug testing, and supervision shall be set
9 by the treatment and supervision providers respectively and made
10 part of the court's order for payment. User fees shall be set by
11 the drug court judge within the maximum amount authorized by this
12 subsection and payable directly to the court clerk for the benefit
13 and administration of the drug court program. Treatment, drug
14 testing, and supervision costs shall be paid to the respective
15 providers. The court clerk shall collect all other costs and fees
16 ordered. The remaining user fees shall be remitted to the State
17 Treasurer by the court clerk for deposit in the Department of Mental
18 Health and Substance Abuse Services' Drug Abuse Education and
19 Treatment Revolving Fund established pursuant to Section 2-503.2 of
20 Title 63 of the Oklahoma Statutes. Court orders for costs and fees
21 pursuant to this subsection shall not be limited for purposes of
22 collection to the maximum term of imprisonment for which the
23 offender could have been imprisoned for the offense, nor shall any
24 court order for costs and fees be limited by any term of probation,

1 parole, supervision, treatment, or extension thereof. Court orders
2 for costs and fees shall remain an obligation of the offender until
3 fully paid; provided, however, once the offender has successfully
4 completed the drug court program, the drug court judge shall have
5 the discretion to expressly waive all or part of the costs and fees
6 provided for in this subsection if, in the opinion of the drug court
7 judge, continued payment of the costs and fees by the offender would
8 create a financial hardship for the offender. Offenders who have
9 not fully paid all costs and fees pursuant to court order but who
10 have otherwise successfully completed the drug court program shall
11 not be counted as an active drug court participant for purposes of
12 drug court contracts or program participant numbers.

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

1 and pay all statutory driver license issuance or renewal fees. The
2 offender shall provide proof of insurance to the drug court judge
3 prior to the judge ordering a stay of any driver license suspension,
4 revocation, cancellation, or denial. When a judge of a drug court
5 enters a stay against an order by the Department of Public Safety
6 suspending or revoking the driving privileges of an offender, the
7 time period set in the order by the Department for the suspension or
8 revocation shall continue to run during the stay. When an offender
9 has successfully completed the drug court program, the drug court
10 judge shall maintain jurisdiction over the offender's driving
11 privileges for one (1) year after the date on which the offender
12 graduates from the drug court program.

13 SECTION 5. AMENDATORY 22 O.S. 2011, Section 471.7, is
14 amended to read as follows:

15 Section 471.7 A. The designated drug court judge shall make
16 all judicial decisions concerning any case assigned to the drug
17 court docket or program. The judge shall require progress reports
18 and a periodic review of each offender during his or her period of
19 participation in the drug court program or for purposes of
20 collecting costs and fees after completion of the treatment portion
21 of the program. Reports from the treatment providers and the
22 supervising staff shall be presented to the drug court judge as
23 specified by the treatment plan or as ordered by the court.

24

1 B. Upon the written or oral motion of the treatment provider,
2 the district attorney, the defense attorney, the defendant, or the
3 supervising staff, the drug court judge shall set a date for a
4 hearing to review the offender, the treatment plan, and the
5 provisions of the performance contract. Notice shall be given to
6 the offender and the other parties participating in the drug court
7 case three (3) days before the hearing may be held.

8 C. The judge may establish a regular schedule for progress
9 hearings for any offender in the drug court program. The district
10 attorney shall not be required to attend regular progress hearings,
11 but shall be required to be present upon the motion of any party to
12 a drug court case.

13 D. The treatment provider, the supervising staff, the district
14 attorney, and the defense attorney shall be allowed access to all
15 information in the offender's drug court case file and all
16 information presented to the judge at any periodic review or
17 progress hearing.

18 E. The drug court judge shall recognize relapses and restarts
19 in the program which are considered to be part of the rehabilitation
20 and recovery process. The judge shall accomplish monitoring and
21 offender accountability by ordering progressively increasing
22 sanctions or providing incentives, rather than removing the offender
23 from the program when relapse occurs, except when the offender's
24 conduct requires revocation from the program. Any revocation from

1 the drug court program shall require notice to the offender and
2 other participating parties in the case and a revocation hearing.
3 At the revocation hearing, if the offender is found to have violated
4 the conditions of the plea agreement or performance contract and
5 disciplinary sanctions have been insufficient to gain compliance,
6 the offender shall be ~~revoked~~ reassessed for eligibility for an
7 appropriate program other than prison. The reassessment of the
8 offender includes a development of a treatment plan. The treatment
9 plan shall be introduced to the judge at the revocation hearing.
10 The judge shall consider the treatment plan in lieu of revocation.
11 If the judge finds that the participation of the offender in the
12 treatment plan is counter to public safety, the judge may remove the
13 offender from the program and ~~sentenced~~ sentence the offender for
14 the offense as provided in the plea agreement.

15 F. Upon application of any participating party to a drug court
16 case, the judge may modify a treatment plan at any hearing when it
17 is determined that the treatment is not benefiting the offender.
18 The primary objective of the judge in monitoring the progress of the
19 offender and the treatment plan shall be to keep the offender in
20 treatment for a sufficient time to change behaviors and attitudes.
21 Modification of the treatment plan requires a consultation with the
22 treatment provider, supervising staff, district attorney, and the
23 defense attorney in open court.

24

1 G. The judge shall be prohibited from amending the written plea
2 agreement after an offender has been admitted to the drug court
3 program. Nothing in this provision shall be construed to limit the
4 authority of the judge to remove an offender from the program and
5 impose the required punishment stated in the plea agreement after
6 application, notice, and hearing.

7 SECTION 6. AMENDATORY 22 O.S. 2011, Section 471.9, as
8 amended by Section 2, Chapter 393, O.S.L. 2016 (22 O.S. Supp. 2016,
9 Section 471.9), is amended to read as follows:

10 Section 471.9. A. When an offender has successfully completed
11 the drug court program, ~~the:~~

12 1. The criminal case against the offender shall be:

13 ~~1. Dismissed~~ dismissed if the offense was a first felony
14 offense; or

15 2. If the offender has a prior felony conviction, ~~the~~
16 ~~disposition shall be as specified in the written plea agreement~~ the
17 court shall:

18 a. defer judgment pursuant to the provisions of the
19 Section 991c of this title without regard to
20 limitations on deferred sentences,

21 b. suspend the execution of the sentence pursuant to
22 Section 991a of this title without regard to
23 limitations on suspended sentences,

24 c. sentence the offender to community sentencing, or

1 d. dismiss the criminal charges and proceedings.

2 B. The final disposition order for a drug court case shall be
3 filed with the judge assigned to the case, and shall indicate the
4 sentence specified in the written plea agreement. A copy of the
5 final disposition order for the drug court case shall also be filed
6 in the original criminal case file under the control of the court
7 clerk which is open to the public for inspection. Original criminal
8 case files which are under the control of the court clerk and which
9 are subsequently assigned to the drug court program shall be marked
10 with a pending notation until a final disposition order is entered
11 in the drug court case. After an offender completes the program,
12 the drug court case file shall be sealed by the judge and may be
13 destroyed after ten (10) years. The district attorney shall have
14 access to sealed drug court case files without a court order.

15 C. A record pertaining to an offense resulting in a successful
16 completion of a drug court program shall not, without the offender's
17 consent in writing, be used in any way which could result in the
18 denial of any employee benefit.

19 D. Successful completion of a drug court program shall not
20 prohibit any administrative agency from taking disciplinary action
21 against any licensee or from denying a license or privilege as may
22 be required by law.

23 E. When the offender has successfully completed the drug court
24 program, the drug court judge shall have the discretion to expressly

1 waive all or part of the court costs and fees, driver license
2 reinstatement fees, if applicable, and fines associated with the
3 criminal case if, in the opinion of the drug court judge, continued
4 payment of the court costs, fees and fines by the offender would
5 create a financial hardship for the offender, including specifically
6 the discretion to waive any requirement that fines and costs be
7 satisfied by a person prior to that person being eligible for a
8 provisional driver license pursuant to Section 6-212 of Title 47 of
9 the Oklahoma Statutes.

10 SECTION 7. AMENDATORY 22 O.S. 2011, Section 472, as
11 amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2016,
12 Section 472), is amended to read as follows:

13 Section 472. A. This section shall be known and may be cited
14 as the "Anna McBride Act".

15 B. Any district or municipal court of this state may establish
16 a mental health court program pursuant to the provisions of this
17 section, subject to the availability of funds.

18 C. The court may request assistance from the Department of
19 Mental Health and Substance Abuse Services which shall be the
20 primary agency to assist in developing and implementing a mental
21 health court program.

22 D. For purposes of this section, "mental health court" means a
23 judicial process that utilizes specially trained court personnel to
24 expedite the case and explore alternatives to incarceration for

1 offenders charged with criminal offenses other than a crime listed
2 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
3 who have a mental illness or a developmental disability, or a co-
4 occurring mental illness and substance abuse disorder. The district
5 attorney's office may use discretion in the prosecution of those
6 offenders specified in this subsection subject to the restrictions
7 provided in subsection E of this section.

8 E. The court shall have the authority to exclude from mental
9 health court any offender arrested or charged with any violent
10 offense or any offender who has a prior felony conviction in this
11 state or another state for a violent offense. Eligibility and entry
12 by an offender into the mental health court program is dependent
13 upon prior approval of the district attorney. Eligible offenses may
14 further be restricted by the rules of the specific mental health
15 court program. The court also shall have the authority to exclude
16 persons from mental health court who have a propensity for violence.

17 F. The mental health court judge shall recognize relapses and
18 restarts in the program which shall be considered as part of the
19 rehabilitation and recovery process. The court shall accomplish
20 monitoring and offender accountability by ordering progressively
21 increasing sanctions or providing incentives, rather than removing
22 the offender from the program when a violation occurs, except when
23 the conduct of the offender requires revocation from the program.
24 Any revocation from the mental health court program shall require

1 notice to the offender and other participating parties in the case
2 and a revocation hearing. At the revocation hearing, if the
3 offender is found to have violated the conditions of the plea
4 agreement or performance contract and disciplinary sanctions have
5 been insufficient to gain compliance, the offender shall be revoked
6 from the program and sentenced for the offense as provided in the
7 plea agreement.

8 G. When an offender has successfully completed the mental
9 health court program, the criminal case against the offender shall
10 be:

- 11 1. Dismissed if the offense was a first felony offense; or
- 12 2. If the offender has a prior felony conviction, the court

13 shall:

- 14 a. defer judgment pursuant to the provisions of Section
15 991c of this title without regard to limitations on
16 deferred sentences,
- 17 b. suspend the execution of sentence pursuant to Section
18 991a of this title without regard to limitations on
19 suspended sentences,
- 20 c. sentence the offender to community sentencing, or
- 21 d. dismiss the criminal charges and proceedings.

22 SECTION 8. This act shall become effective November 1, 2017.

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