

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2290

By: Biggs of the House

and

Treat of the Senate

7 An Act relating to drug and mental health court; ***
8 the Oklahoma Drug Court Act;*** Anna McBride Act; ***
9 health court program; and providing an effective
date.

10 AUTHOR: Add the following Senate Coauthor: Pittman

11 AMENDMENT NO. 1. Strike the title to read:

12 "[drug and mental health court - Oklahoma Drug Court
13 Act - program objectives - external evaluations -
14 sentencing options - Anna McBride Act - mental health
court program - effective date]"

15 Passed the Senate the 26th day of April, 2017.

17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2017.

22 _____
23 Presiding Officer of the House
24 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2290

By: Biggs of the House

3 and

4 Treat of the Senate

5
6
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 and 471.9, as amended by Section 2,
13 Chapter 393, O.S.L. 2016 (22 O.S. Supp. 2016,
14 Sections 471.1, 471.2, 471.6 and 471.9), which relate
15 to the Oklahoma Drug Court Act; expanding parameters
16 of drug court program objectives; providing for
17 external evaluations of drug court programs;
18 modifying list of offender information to be reviewed
19 by law enforcement; deleting approval requirement
20 from drug court consideration process; prohibiting
21 offenders deemed low risk from admission into drug
22 court program; providing sentencing options for
23 certain offenders who successfully complete drug
24 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:

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

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

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

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

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

1 attorney, and other persons designated by the drug court team who
2 shall have appropriate understanding of the goals of the program and
3 of the appropriate treatment methods for the various conditions.
4 The assignment of any person to the drug court team shall not
5 preclude the assigned person from performing other duties required
6 in the course of their office or employment. The chief judge of the
7 judicial district, or if the district has more than one chief judge
8 ~~than~~ then the presiding judge of the Administrative Judicial
9 District, shall designate one or more judges to administer the drug
10 court program. The assignment of any judge to a drug court program
11 or the designation of a drug court docket shall not mandate the
12 assignment of all substance abuse related cases to the drug court
13 docket or the program; however, nothing in this act shall be
14 construed to preclude the assignment of all criminal cases relating
15 to substance abuse or drug possession as provided by the rules
16 established for the specific drug court program.

17 E. When a drug court program is established, the arresting
18 officer shall file the criminal case record for potentially eligible
19 offenders with the district attorney within four (4) days of the
20 arrest. The district attorney shall file an information in the case
21 within twenty-four (24) hours of receipt of the criminal case record
22 when the offender appears eligible for consideration for the
23 program. The information may be amended as necessary when an
24 offender is denied admittance into the drug court program or for

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

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

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

- 21 1. Strong linkage between participating agencies;
- 22 2. Access by all participating parties of a case to information
23 on the progress of the offender;
- 24 3. Vigilant supervision and monitoring procedures;

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

1 ~~9.~~ 11. Methods for measuring performance-based effectiveness of
2 each individual treatment provider's services.

3 H. All drug court programs shall be required to keep reliable
4 data on recidivism, relapse, restarts, sanctions imposed, and
5 incentives given.

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

15 J. Every three (3) years, an external evaluation shall be
16 conducted to assess the effectiveness of the statewide and
17 individual drug court programs in adhering to key components
18 established by nationally recognized drug court program
19 professionals.

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

23 Section 471.2 A. The initial opportunity for review of an
24 offender for a drug court program shall occur within four (4) days

1 after the arrest and detention or incarceration of the offender in
2 the city or county jail, or if an immediate bond release program is
3 available through the jail, the initial opportunity for review shall
4 occur in conjunction with the bond release program. When a drug
5 court is established, the following information shall be initially
6 reviewed by the sheriff or designee, if the offender is held in a
7 county jail, or by the chief of police or designee, if the offender
8 is held in a city jail:

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

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

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

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

22 5. The ~~offender:~~

23 a. ~~admits to having a substance abuse addiction,~~

24 b. ~~appears to have a substance abuse addiction,~~

1 e. ~~is known to have a substance abuse addiction,~~

2 d. ~~the~~ arrest or charge of the offender is based upon an
3 offense eligible for the drug court program, ~~or~~

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

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

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

- 1 1. A full description of the drug court process and
2 investigation;
- 3 2. A general explanation of the roles and authority of the
4 supervising staff, the district attorney, the defense attorney, the
5 treatment provider, the offender, and the judge in the drug court
6 program;
- 7 3. A clear statement that the drug court judge may decide after
8 a hearing not to consider the offender for the drug court program
9 and in that event the offender will be prosecuted in the traditional
10 manner;
- 11 4. A clear statement that the offender is required, before
12 consideration in the program, to enter a guilty plea as part of a
13 written plea agreement;
- 14 5. A clear statement that the plea agreement will specify the
15 offense to which the guilty plea will be entered and will state any
16 penalty to be imposed for the offense, both in the event of a
17 successful completion of the drug court program, and in the event of
18 a failure to complete the program;
- 19 6. A clear statement that the offender must voluntarily agree
20 to:
 - 21 a. waive the right to a speedy trial,
 - 22 b. waive the right to a preliminary hearing,
 - 23 c. the terms and conditions of a treatment plan, and
 - 24 d. sign a performance contract with the court;

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

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

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

- 14 a. fail to comply with the terms of the agreements,
- 15 b. be convicted of a misdemeanor offense which reflects a
16 propensity for violence,
- 17 c. be arrested for a violent felony offense, or
- 18 d. be convicted of any felony offense,

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

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

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

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

14 b. after release of the offender from incarceration, the
15 offender must sign and complete the eligibility form
16 and file it with the district attorney or the court,
17 prior to or at the time of either initial appearance
18 or arraignment.

19 2. Any offender desiring legal consultation prior to signing or
20 completing the form for consideration in a drug court program shall
21 be referred to the defense attorney of the drug court team, or a
22 public defender, if the offender is indigent, or allowed to consult
23 with private legal counsel.
24

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

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

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

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

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

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

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

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

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

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

1 for the drug court program with the approval of the district
2 attorney.

3 SECTION 4. AMENDATORY 22 O.S. 2011, Section 471.6, as
4 last amended by Section 1, Chapter 393, O.S.L. 2016 (22 O.S. Supp.
5 2016, Section 471.6), is amended to read as follows:

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

9 1. Whether or not the offender voluntarily consents to the
10 program requirements;

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

14 3. Whether or not there is a written plea agreement, and if so,
15 whether the terms and conditions of the written negotiated plea
16 between the district attorney, the defense attorney, and the
17 offender are appropriate and consistent with the penalty provisions
18 and conditions of other similar cases;

19 4. Whether or not there is an appropriate treatment program
20 available to the offender and whether or not there is a recommended
21 treatment plan; and

22 5. Any information relevant to determining eligibility;
23 provided, however, an offender shall not be denied admittance to any
24

1 drug court program based upon an inability to pay court costs or
2 other costs or fees.

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

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

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

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

11 4. The offender is assessed as low risk;

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

15 ~~5.~~ 6. The offender is inappropriate for admission to the
16 program, in the discretion of the judge.

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

1 negotiations of the plea or punishment provisions. The decision of
2 the judge for or against eligibility and admission shall be final.

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

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

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

24

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

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

23 H. The drug court judge shall order the offender to pay court
24 costs, treatment costs, drug testing costs, a program user fee not

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

1 the discretion to expressly waive all or part of the costs and fees
2 provided for in this subsection if, in the opinion of the drug court
3 judge, continued payment of the costs and fees by the offender would
4 create a financial hardship for the offender. Offenders who have
5 not fully paid all costs and fees pursuant to court order but who
6 have otherwise successfully completed the drug court program shall
7 not be counted as an active drug court participant for purposes of
8 drug court contracts or program participant numbers.

9 I. Notwithstanding any other provision of law, if the driving
10 privileges of the offender have been suspended, revoked, cancelled
11 or 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 5. AMENDATORY 22 O.S. 2011, Section 471.9, as
10 amended by Section 2, Chapter 393, O.S.L. 2016 (22 O.S. Supp. 2016,
11 Section 471.9), is amended to read as follows:

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

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

15 ~~1. Dismissed~~ dismissed if the offense was a first felony
16 offense; or

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

20 a. defer judgment pursuant to the provisions of Section
21 991c of this title without regard to limitations on
22 deferred sentences,

23

24

- 1 b. suspend the execution of the sentence pursuant to
2 Section 991a of this title without regard to
3 limitations on suspended sentences,
4 c. sentence the offender to community sentencing, or
5 d. dismiss the criminal charges and proceedings.

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

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

23 D. Successful completion of a drug court program shall not
24 prohibit any administrative agency from taking disciplinary action

1 against any licensee or from denying a license or privilege as may
2 be required by law.

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

14 SECTION 6. AMENDATORY 22 O.S. 2011, Section 472, as
15 amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2016,
16 Section 472), is amended to read as follows:

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

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

22 C. The court may request assistance from the Department of
23 Mental Health and Substance Abuse Services which shall be the
24

1 primary agency to assist in developing and implementing a mental
2 health court program.

3 D. For purposes of this section, "mental health court" means a
4 judicial process that utilizes specially trained court personnel to
5 expedite the case and explore alternatives to incarceration for
6 offenders charged with criminal offenses other than a crime listed
7 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
8 who have a mental illness or a developmental disability, or a co-
9 occurring mental illness and substance abuse disorder. The district
10 attorney's office may use discretion in the prosecution of those
11 offenders specified in this subsection subject to the restrictions
12 provided in subsection E of this section.

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

22 F. The mental health court judge shall recognize relapses and
23 restarts in the program which shall be considered as part of the
24 rehabilitation and recovery process. The court shall accomplish

1 monitoring and offender accountability by ordering progressively
2 increasing sanctions or providing incentives, rather than removing
3 the offender from the program when a violation occurs, except when
4 the conduct of the offender requires revocation from the program.
5 Any revocation from the mental health court program shall require
6 notice to the offender and other participating parties in the case
7 and a revocation hearing. At the revocation hearing, if the
8 offender is found to have violated the conditions of the plea
9 agreement or performance contract and disciplinary sanctions have
10 been insufficient to gain compliance, the offender shall be revoked
11 from the program and sentenced for the offense as provided in the
12 plea agreement.

13 G. When an offender has successfully completed the mental
14 health court program, the criminal case against the offender shall
15 be:

- 16 1. Dismissed if the offense was a first felony offense; or
17 2. If the offender has a prior felony conviction, the court
18 shall:

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

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

