

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

4 3. Whether or not there is a written plea agreement, and if so,
5 whether the terms and conditions of the written negotiated plea
6 between the district attorney, the defense attorney, and the
7 offender are appropriate and consistent with the penalty provisions
8 and conditions of other similar cases;

9 4. Whether or not there is an appropriate treatment program
10 available to the offender and whether or not there is a recommended
11 treatment plan; and

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

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

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

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

23 3. The treatment program is unwilling to accept the offender;
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1 4. The offender was ineligible for consideration by the nature
2 of a violent offense at the time of arrest, and the charge has been
3 modified to meet the eligibility criteria of the program; or

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

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

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

20 The court documents shall include:

- 21 1. Waiver of the offender's rights to speedy trial;
- 22 2. A written plea agreement which sets forth the offense
23 charged, the penalty to be imposed for the offense in the event of a
24 breach of the agreement, and the penalty to be imposed, if any, in

1 the event of a successful completion of the treatment program;
2 provided, however, incarceration shall be prohibited when the
3 offender completes the treatment program;

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

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

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

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

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

1 attorney for the offender, and the supervising staff for the drug
2 court program shall evaluate the appropriateness of continued
3 supervision on a quarterly basis. All participating treatment
4 providers shall be certified by the Department of Mental Health and
5 Substance Abuse Services and shall be selected and evaluated for
6 performance-based effectiveness annually by the Department of Mental
7 Health and Substance Abuse Services. Treatment programs shall be
8 designed to be completed within twelve (12) months and shall have
9 relapse prevention and evaluation components.

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

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

20 I. Notwithstanding any other provision of law, if the driving
21 privileges of the offender have been suspended, revoked, cancelled
22 or 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.

16 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.9, is
17 amended to read as follows:

18 Section 471.9 A. When an offender has successfully completed
19 the drug court program, the criminal case against the offender shall
20 be:

- 21 1. Dismissed if the offense was a first felony offense; or
- 22 2. If the offender has a prior felony conviction, the
23 disposition shall be as specified in the written plea agreement.

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

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

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

22 E. When the offender has successfully completed the drug court
23 program, the drug court judge shall have the discretion to expressly
24 waive all or part of the court costs and fees, driver license

1 reinstatement fees, if applicable, and fines associated with the
2 criminal case if, in the opinion of the drug court judge, continued
3 payment of the court costs, fees and fines by the offender would
4 create a financial hardship for the offender.

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1 SECTION 3. This act shall become effective November 1, 2016.

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3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
4 02/25/2016 - DO PASS, As Coauthored.

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