

MISSISSIPPI CODE/ TITLE 9 COURTS/ CHAPTER 23 DRUG COURT

Signed into law during the 2003 Regular Session of the Mississippi Legislature.

§ 9-23-1. Short Title.

This act shall be known and may be cited as the Alyce Griffin Clarke Drug Court Act.

§ 9-23-3. Legislative Intent.

(1) The Legislature of Mississippi recognizes the critical need for judicial intervention to reduce the incidence of alcohol and drug use, alcohol and drug addiction, and crimes committed as a result of alcohol and drug use and alcohol and drug addiction. It is the intent of the Legislature to facilitate local drug court alternative orders adaptable to chancery, circuit, county, youth, municipal and justice courts.

(2) The goals of the drug courts under this act include the following:

(a) To reduce alcoholism and other drug dependencies among adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect or both;

(b) To reduce criminal and delinquent recidivism and the incidence of child abuse and neglect;

(c) To reduce the alcohol-related and other drug-related court workload;

(d) To increase personal, familial and societal accountability of adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect or both; and

(e) To promote effective interaction and use of resources among criminal and juvenile justice personnel, child protective services personnel and community agencies.

§ 9-23-5. Definitions.

For the purposes of this act, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "Drug court" means an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that:

(i) Brings together substance abuse professionals, local social programs and intensive judicial monitoring; and

(ii) Follows the key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

(b) "Chemical tests" means the analysis of an individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v) saliva, (vi) urine; or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

§ 9-23-7. Administrative Office of Courts to certify and monitor drug courts.

The Administrative Office of Courts shall be responsible for certification and monitoring of local drug courts according to standards promulgated by the State Drug Courts Advisory Committee.

§ 9-23-9. State Drug Court Advisory Committee created; recommendations.

(1) The State Drug Courts Advisory Committee is established to develop and periodically update proposed statewide evaluation plans and models for monitoring all critical aspects of drug courts. The committee must provide the proposed evaluation plans to the Chief Justice and the Administrative Office of Courts. The committee shall be chaired by the Director of the Administrative Office of Courts and shall consist of not less than seven (7) members nor more than eleven (11) members appointed by the Supreme Court and broadly representative of the courts, law enforcement, corrections, juvenile justice, child protective services and substance abuse treatment communities.

(2) The State Drug Courts Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to drug court policies and procedures. The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for drug court operation.

(3) The State Drug Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of drug courts established under this act and make recommendations to improve the drug courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.

§ 9-23-11. Requirements for alcohol and drug intervention component; rules and special orders; employees of drug court; regulation; fees and costs.

(1) A drug court may establish an alcohol and drug intervention component provided all the following requirements are met:

(a) The drug court established by the court is certified by the Administrative Office of Courts;

(b) The court that established the drug court determines that in order to fully implement the purposes of the drug court that the drug and alcohol intervention component is necessary; and

(c) The court must submit a petition for approval to the Administrative Office of Courts

containing the following:

- (i) A full description of a proposed intervention component.
 - (ii) A budget supported by statistics.
 - (iii) Details on the implementation of the intervention component.
- (2) Each individual drug court judge may establish rules and may make special orders and rules as necessary that do not conflict with rules promulgated by the Supreme Court.
- (3) A drug court may appoint such full- or part-time employees it deems necessary for the work of the drug court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.
- (4) Drug court employees or contractors shall perform duties the court assigns.
- (5) A drug court established under this act is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 8 of this act.
- (6) Each individual drug court is responsible for the administration of the drug and alcohol intervention component of that court.
- (7) (a) The costs of participation in an alcohol and drug services component required by the drug court established by this act may be paid by the participant or out of user fees or such other state, federal or private funds that may, from time to time, be made available.
- (b) The court may assess such reasonable fees for participation and may impose sanctions that it deems appropriate.

§ 9-23-13. Intervention services; certification of inpatient treatment programs.

- (1) A drug court's alcohol and drug intervention component may provide for eligible individuals a range of necessary court intervention services, including, but not limited to, the following:
- (a) Screening for eligibility and other appropriate services;
 - (b) Clinical assessment;
 - (c) Education;
 - (d) Referral;
 - (e) Service coordination and case management; and
 - (f) Counseling and rehabilitative care.
- (2) Any inpatient treatment or inpatient detoxification program ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent

agency of another state.

§ 9-23-15. Requirements for participation in drug courts.

(1) In order to be eligible for alternative sentencing through a local drug court, the participant must satisfy each of the following criteria:

(a) The participant cannot have any felony convictions for any offenses which are crimes of violence.

(b) The crime before the court cannot be a crime of violence.

(c) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the participant.

(d) The participant cannot have been currently charged with burglary of an occupied dwelling.

(e) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

(f) The crime charged cannot be one of distribution, sale, possession with intent to distribute, production, manufacture or cultivation of controlled substances, nor can the participant have a prior conviction for same.

(2) Participation in the services of an alcohol and drug intervention component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another drug court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(3) (a) As a condition of participation in a drug court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the drug court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the drug court or the laboratory; provided, however, if testing is available from other sources or the program itself, the judge may waive any fees for testing.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the drug court.

(4) A person does not have a right to participate in drug court under this chapter.

§ 9-23-17. Authority of Administrative Office of Courts.

With regard to any drug court established under this act, the Administrative Office of Courts may do the following:

- (a) Ensure that the structure of the intervention component complies with rules adopted under this section and applicable federal regulations.
- (b) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.
- (c) Make agreements and contracts to effectuate the purposes of this act with:
 - (i) Another department, authority or agency of the state;
 - (ii) Another state;
 - (iii) The federal government;
 - (iv) A state-supported or private university; or
 - (v) A public or private agency, foundation, corporation or individual.
- (d) Directly, or by contract, approve and certify any intervention component established under this act.
- (e) Require, as a condition of operation, that each drug court created or funded under this act be certified by the Administrative Office of Courts.
- (f) Adopt rules to implement this act.

§ 9-23-19. Funding for drug courts.

- (1) All monies received from any source by the drug court shall be accumulated in a fund to be used only for drug court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the drug court fund for the funding of further activities by the drug court.
- (2) A drug court may apply for and receive the following:
 - (a) Gifts, bequests and donations from private sources.
 - (b) Grant and contract money from governmental sources.
 - (c) Other forms of financial assistance approved by the court to supplement the budget of the drug court.

§ 9-23-21. Immunity for drug court staff.

The director and members of the professional and administrative staff of the drug court who perform duties in good faith under this act are immune from civil liability for:

- (a) Acts or omissions in providing services under this act; and
- (b) The reasonable exercise of discretion in determining eligibility to participate in the drug court.

§ 9-23-23. Successful completion of drug court may result in expunction of criminal record.

If the participant completes all requirements imposed upon him by the drug court, including the payment of fines and fees assessed, the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of plea of guilty, the successful completion of the drug court order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication being expunged. However, no expunction of any implied consent violation shall be allowed.