

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H1/19/21  
**A Bill**

HOUSE BILL 1059

By: Representative Dalby  
By: Senator A. Clark

### **For An Act To Be Entitled**

AN ACT CONCERNING SPECIALTY COURT PROGRAMS;  
CONCERNING THE INTRASTATE TRANSFER OF A SPECIALTY  
COURT PROGRAM PARTICIPANT TO ANOTHER SPECIALTY COURT  
PROGRAM; TO CREATE A VETERANS TREATMENT SPECIALTY  
COURT PROGRAM; TO CREATE A DRIVING OR BOATING WHILE  
INTOXICATED SPECIALTY COURT PROGRAM; AND FOR OTHER  
PURPOSES.

### **Subtitle**

CONCERNING THE INTRASTATE TRANSFER OF A  
SPECIALTY COURT PROGRAM PARTICIPANT TO  
ANOTHER SPECIALTY COURT PROGRAM; TO  
CREATE A VETERANS TREATMENT SPECIALTY  
COURT PROGRAM; AND TO CREATE A DWI/BWI  
SPECIALTY COURT PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-10-139 is amended to read as follows:

16-10-139. Specialty court program evaluation and approval – Transfer –  
Definition.

(a) As used in this section, “specialty court program” means one (1)  
of the following:

- (1) A pre-adjudication program under § 5-4-901 et seq.;
- (2) An approved drug court program under the Arkansas Drug Court Act, § 16-98-301 et seq.;



(3) The Swift and Certain Accountability on Probation Pilot Program under § 16-93-1701 et seq.; and

(4) Any other specialty court program that has been approved by the Supreme Court, including without limitation specialty court programs known as:

- (A) A ~~DWI~~ DWI/BWI specialty court program;
- (B) A mental health specialty court program;
- (C) A ~~veteran's~~ veterans treatment specialty court

program;

- (D) A juvenile drug court;
- (E) A "HOPE" court; and
- (F) A ~~"smarter sentencing" court; and~~ domestic violence

specialty court program

~~(G) A mental health crisis intervention center.~~

(b) A specialty court program operated by a circuit court or district court must be approved by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order ~~No.~~ Nos. 14 and 18.

(c)(1) The Specialty Court Program Advisory Committee shall evaluate and make findings with respect to all specialty court programs operated by a circuit court or district court in this state and refer the findings to the Supreme Court.

(2) An evaluation under this section shall reflect nationally recognized and peer-reviewed standards for each particular type of specialty court program.

(3) The Specialty Court Program Advisory Committee shall also:

(A) Establish, implement, and operate a uniform specialty court program evaluation process to ensure specialty court program resources are uniformly directed to high-risk, ~~and medium-risk~~ high-need offenders and that specialty court programs provide effective and proven practices that reduce recidivism, as well as other factors such as substance dependency, among participants;

(B) Establish an evaluation process that ensures that any new and existing specialty court program that is a drug court program meets standards for drug court program operation under § 16-98-302(b); and

(C) Promulgate rules to be approved by the Supreme Court to carry out the evaluation process under this section.

(d) A specialty court program shall be evaluated under the following schedule:

(1) A specialty court program established on or after April 1, 2015, shall be evaluated after its second year of funded operation;

(2) A specialty court program in existence on April 1, 2015, shall be evaluated under the requirements of this section prior to expending resources budgeted for fiscal year 2017; and

(3) A specialty court program shall be reevaluated every two (2) years after the initial evaluation.

(e)(1)(A) On motion of a specialty court program participant, a specialty court judge who presides over a specialty court program may by written order transfer responsibility for supervision and specialty court program enforcement of the specialty court program participant's case to another specialty court judge with the consent of the other specialty court judge.

(B) The specialty court program participant shall comply with the policies and procedures for the specialty court program to which the specialty court program participant's case is transferred.

(C) The specialty court judge to whom the specialty court program participant's case is transferred may impose sanctions on the specialty court program participant, including without limitation the imposition of a period of incarceration and the requirement of inpatient treatment under the written policies and procedures for the specialty court program to which the specialty court program participant's case has been transferred.

(2)(A) If the specialty court judge to whom the specialty court program participant's case has been transferred determines that the specialty court program participant has successfully completed the specialty court program, the specialty court judge shall notify the transferring specialty court judge and request that the appropriate orders be entered in the specialty court program participant's case.

(B)(i) If after a specialty court program participant's case is transferred, the specialty court team recommends that the specialty court program participant be removed from the specialty court program, the specialty court judge shall enter an order returning the specialty court program participant's case to the transferring specialty court program.

(ii) Upon return of the specialty court program participant's case to the transferring specialty court program, the specialty court judge shall determine an appropriate disposition of the matter.

(f)(1)(A) If a specialty court program participant's case is transferred from a district court, all assessed fines, penalties, court costs, and fees other than those described under subdivision (f)(2) of this section shall be paid to the transferring district court, notwithstanding the provisions of § 16-10-141.

(B) The funds described under subdivision (f)(1)(A) of this section shall be disbursed as required under § 16-17-707.

(2) In accordance with § 16-10-141(b)(2)-(7), the district court to which the case is transferred may assess and collect:

(A) Treatment costs;

(B) Drug testing costs;

(C) A local specialty court program user fee;

(D) Necessary supervision fees, including any applicable residential treatment fees;

(E) Global positioning system monitoring costs; and

(F) Continuous alcohol monitoring fees.

(g)(1) If a specialty court program participant's case is transferred from a circuit court, all assessed fines, penalties, court costs, and fees other than those under subdivision (g)(2) of this section shall be paid to the transferring circuit court, notwithstanding the provisions of § 16-98-304.

(2) In accordance with §§ 5-4-907, 16-10-701, 16-98-304, 16-100-209, and 16-101-104, the circuit court to which the specialty court program participant's case is transferred may assess and collect:

(A) Treatment costs;

(B) Drug testing costs;

(C) A local specialty court program user fee;

(D) Necessary supervision fees, including any applicable residential treatment fees;

(E) A fee determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) that is to be paid to the Division of Community Correction;

(F) Global positioning system monitoring costs;

(G) Continuous alcohol monitoring fees;

(H) Tuition and other educational fees for a vocational school, technical school, community college, or two-year or four-year public university that is part of the pre-adjudication probation program in which the specialty court program participant is participating; and

(I) A specialty court program public defender user fee.

SECTION 2. Arkansas Code § 16-98-306(h), concerning the requirements of the Specialty Court Program Advisory Committee, is amended to read as follows:

(h) The Specialty Court Program Advisory Committee shall:

(1) Submit a report by July 1 of each year summarizing the data collected and outcomes achieved by all approved ~~drug~~ specialty courts; and

(2) Contract with a third-party evaluator every ~~three~~ (3) five (5) years to conduct an evaluation on the effectiveness of the ~~drug~~ specialty court program in complying with the key components of § 16-98-302(b).

SECTION 3. Arkansas Code Title 16, is amended to add a new chapter read as follows:

#### CHAPTER 101

#### VETERANS TREATMENT SPECIALTY COURT PROGRAMS

16-101-101. Specialty court authorized – Program authorized – Evaluation – Restriction on services and treatment.

(a) A circuit court may establish a veterans treatment specialty court program, subject to approval by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order No. 14.

(b) A veterans treatment specialty court is a specialized court within the existing structure of the court system.

(c) The goals of the veterans treatment specialty court program shall be consistent with standards adopted by the United States Department of Justice and the National Association of Drug Court Professionals, as they existed on January 1, 2021.

(d) A veterans treatment specialty court program is subject to evaluation by the Specialty Court Program Advisory Committee under § 16-10-139.

(e)(1) A veterans treatment specialty court may not order any services, including mental health or substance use disorder treatment under this chapter unless:

(A) An administrative and programmatic appropriation has been made for the services;

(B) Administrative and programmatic funding is available for the services; and

(C) Administrative and programmatic positions have been authorized for the services.

(2) If the requirements of subdivision (e)(1) of this section are not met, a veterans treatment specialty court may still order services if the provider waives payment or if the specialty court participant has private insurance that will pay for the services.

16-101-102. Administration of veterans treatment specialty court program.

(a) A veterans treatment specialty court program may require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial system.

(b) Each veterans treatment specialty court shall develop a policy and procedure manual for the veterans treatment specialty court program.

(c) The veterans treatment specialty court program shall offer judicial monitoring with intensive substance use disorder treatment, mental health treatment, and strict supervision of high-risk, high-need defendants as determined by a validated risk-needs assessment tool.

(d)(1) A veterans treatment specialty court program team shall be designated by the veterans treatment specialty court judge to manage the veterans treatment specialty court docket.

(2) Veterans treatment specialty court team members shall include:

(A) A circuit judge or state district court judge;

(B) A prosecuting attorney;

(C) A public defender or private defense attorney;

(D) One (1) or more probation officers employed by the Division of Community Correction;

(E) One (1) or more treatment providers with experience in

the fields of mental health and substance use disorder treatment;

(F) One (1) or more local law enforcement agency representatives;

(G) One (1) or more veterans justice outreach specialists;  
and

(H) Any other individuals determined necessary by the veterans treatment specialty court judge.

(e) A veterans treatment specialty court program may be pre-adjudication or post-adjudication.

(f) If the veterans treatment specialty court utilizes a case management system that allows for the collection and processing of data, the veterans treatment specialty court shall collect and provide monthly data on veterans treatment specialty court program applicants and all participants as required by the Specialty Court Program Advisory Committee in accordance with rules promulgated under § 10-3-2901.

16-101-103. Eligibility.

A person is eligible for participation in a veterans treatment specialty court program if the person:

- (1) Has a substance use disorder or mental health disorder;
- (2) Is eighteen (18) years of age or older;
- (3) Is a veteran or a service member of the United States Armed Forces or National Guard; and
- (4) Agrees to comply with the policies and procedures developed by the veterans treatment specialty court.

16-101-104. Costs and fees.

(a) The veterans treatment specialty court judge presiding over a veterans treatment specialty court program that has been approved by the Supreme Court may order a veterans treatment specialty court program participant to pay:

- (1) Court costs as provided in § 16-10-305;
- (2) Treatment costs;
- (3) Drug testing costs;
- (4) A veterans treatment specialty court program user fee;
- (5) Necessary supervision fees, including any applicable

residential treatment fees;

(6) A fee determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) that is to be paid to the Division of Community Correction;

(7) Global Positioning System monitoring costs; and

(8) Continuous alcohol monitoring fees.

(b)(1) The veterans treatment specialty court judge shall establish a schedule for the payment of veterans treatment specialty court costs and fees.

(2) The cost for treatment, drug testing, continuous alcohol monitoring if ordered, and supervision shall be set by the treatment and supervision providers and made part of the order of the veterans treatment specialty court judge for payment.

(3) Veterans treatment specialty court program user fees shall be set by the veterans treatment specialty court judge.

(4) The costs for treatment, drug testing, continuous alcohol monitoring if ordered, and supervision shall be paid to the respective providers.

(5)(A) All court costs and veterans treatment specialty court program user fees assessed by the veterans treatment specialty court judge shall be paid to the court clerk for remittance to the county treasury under § 14-14-1313.

(B) All installment payments shall initially be deemed to be collection of court costs under § 16-10-305 until the court costs have been collected in full with any remaining payments representing collections of other fees and costs as authorized in this section and shall be credited to the county administration of justice fund and distributed under § 16-10-307.

(C) Veteran treatment specialty court program user fees shall be credited to a fund known as the “veterans treatment specialty court program fund” and appropriated by the quorum court for the benefit and administration of the veterans treatment specialty court program.

(D) Court orders for costs and fees shall remain an obligation of the veterans treatment specialty court program participant and payment shall be monitored by the veterans treatment specialty court until fully made.

(E) Expenditures from the veteran treatment specialty court program fund shall require the approval of the veteran treatment specialty court and shall be authorized and paid by law concerning the appropriation and payment of county or municipal expenditures by the governing body or, if applicable, governing bodies, that contribute to the expenses of the circuit court.

(F)(i) Expenditures from the veterans treatment specialty court program fund shall be used solely for the support, benefit, and administration of the veterans treatment specialty court program.

(ii) Expenditures may be made for indirect expenses related to the veterans treatment specialty court program, including training and travel expenses, veterans treatment specialty court program user incentives, graduation costs, and supplies.

(6) Court orders for costs and fees shall remain an obligation of the veterans treatment specialty court participant and payment shall be monitored by the veterans treatment specialty court until fully made.

(c) A grant awarded to a veterans treatment specialty court program, as well as all memorials, honorariums, and other monetary gifts to the veterans treatment specialty court program shall be deposited into the veterans treatment specialty court program fund.

(d) A fee or costs under this section may be waived in whole or in part if the veterans treatment specialty court finds that the veterans treatment specialty court program participant subject to paying the fee or costs is indigent.

16-101-105. Presiding judge.

(a) If a judicial district chooses to create and administer a veterans treatment specialty court, subject to Arkansas Constitution, Amendment 80, the administrative judge of the judicial district shall designate one (1) or more circuit judges to be the veterans treatment specialty court judges and to administer the veterans treatment specialty court program.

(b) If a county is in a judicial district that does not have a circuit judge who is able to administer the veterans treatment specialty court program on a consistent basis, the administrative plan for the judicial circuit required by Supreme Court Administrative Order No. 14 and the administrative plan for the district court pursuant to Supreme Court

Administrative Order No. 18 may designate a state district court judge to be a veterans treatment court specialty court judge and to administer the veterans treatment specialty court program.

16-101-106. Completion of program – Dismissal of case – Sealing of record.

(a) A veterans treatment specialty court judge, on his or her own motion or upon request from a veterans treatment specialty court program participant, may order dismissal of a veterans treatment specialty court program participant's case if:

(1) The veterans treatment specialty court program participant has successfully completed the veterans treatment specialty court program, as determined by the veterans treatment specialty court judge;

(2) The veterans treatment specialty court judge has received a recommendation from the prosecuting attorney for dismissal of the veterans treatment specialty court program participant's case and the sealing of the record; and

(3) The veterans treatment specialty court judge, after considering the veterans treatment specialty court program participant's past criminal history, determines that the dismissal of the veterans treatment specialty court program participant's case and the sealing of the record are appropriate.

(b)(1) Except as provided in subdivision (b)(2) of this section, if the veterans treatment specialty court program participant has pleaded guilty or nolo contendere to or has been found guilty of an offense falling within a target group under § 16-93-1202(10)(A)(i) in another circuit court in this state, the veterans treatment specialty court judge may order dismissal of the veterans treatment specialty court program participant's case and the sealing of the record for an offense falling within the target group with the written concurrence of the other circuit court.

(2) The following offenses are not eligible for sealing under subdivision (b)(1) of this section:

(A) Residential burglary, § 5-39-201(a);

(B) Commercial burglary, § 5-39-201(b);

(C) Breaking or entering, § 5-39-202; and

(D) Driving or boating while intoxicated, § 5-65-103.

(c) Unless otherwise ordered by the veterans treatment specialty court judge, sealing under this subsection shall be as described in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.

SECTION 4. Arkansas Code Title 16, is amended to add a new chapter to read as follows:

CHAPTER 102

DWI/BWI SPECIALTY COURT PROGRAMS

16-102-101. Specialty court authorized – Program authorized – Evaluation – Restriction on services and treatment.

(a) A district court may establish a DWI/BWI specialty court program for persons convicted of driving or boating while intoxicated, § 5-65-103, subject to approval by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order No. 18.

(b) A DWI/BWI specialty court is a specialized court within the existing structure of the court system.

(c) The goals of the DWI/BWI specialty court program shall be consistent with standards adopted by the United States Department of Justice and recommended by the National Center for DWI Courts, as they existed on January 1, 2021.

(d) A DWI/BWI specialty court program authorized under this chapter is subject to evaluation by the Specialty Court Program Advisory Committee under § 16-10-139.

(e)(1) A DWI/BWI specialty court program may not order any services, including mental health or substance use disorder treatment under this chapter unless:

(A) An administrative and programmatic appropriation has been made for the services;

(B) Administrative and programmatic funding is available for the services; and

(C) Administrative and programmatic positions have been authorized for the services.

(2) If the requirements of subdivision (e)(1) of this section are not met, a DWI/BWI specialty court may still order the services if the provider waives payment or if the DWI/BWI specialty court program participant

has private insurance that will pay for the services.

16-102-102. Administration.

(a) A DWI/BWI specialty court program may require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial system.

(b) Each DWI/BWI specialty court shall develop a policy and procedure manual for the DWI/BWI specialty court program.

(c) The DWI/BWI specialty court program shall offer judicial monitoring with intensive substance use disorder treatment and strict supervision of high-risk, high-need defendants, as determined by a validated risk-needs assessment tool, in cases of driving or boating while intoxicated, § 5-65-103.

(d)(1) The DWI/BWI specialty court shall have jurisdiction of a DWI/BWI specialty court program participant for sixteen (16) months from the date of sentencing to complete the DWI/BWI specialty court program in conformance with the standards adopted by the United States Department of Justice and recommended by the National Center for DWI Courts, as they existed on January 1, 2021.

(2) In order for the DWI/BWI specialty court program participant to complete the DWI/BWI specialty court program and upon finding of good cause, the DWI/BWI specialty court may extend jurisdiction of the DWI/BWI specialty court program participant for an additional two (2) months.

(e)(1) A DWI/BWI specialty court program team shall be designated by the DWI/BWI specialty court judge to manage the DWI/BWI specialty court program docket.

(2) DWI/BWI specialty court program team members shall include:

(i) A district judge;

(ii) A prosecuting attorney or city attorney;

(iii) A public defender or private defense attorney;

(iv) One (1) or more probation officers;

(v) One (1) or more treatment providers with experience in the fields of mental health or substance use disorders, or both;

(vi) One (1) or more local law enforcement agency representatives; and

(vii) Any other individuals determined necessary by the

DWI/BWI specialty court program judge.

(f) A person is eligible for participation in a DWI/BWI specialty court program if:

- (1) The person has a substance use disorder;
- (2) The person is eighteen (18) years of age or older;
- (3) The person has pled guilty or nolo contendere or has been found guilty of the offense of driving or boating while intoxicated, § 5-65-103, and is awaiting sentencing for the offense; and
- (4) The person agrees to comply with the policies and procedures developed by the DWI/BWI specialty court program.

(g) Subject to § 5-65-108, probation and any other services ordered by the DWI/BWI specialty court shall be ordered after the person pleads guilty or nolo contendere to violating driving or boating while intoxicated, § 5-65-103.

(h) A DWI/BWI specialty court shall not reduce or dismiss a charge or conviction of driving or boating while intoxicated, § 5-65-107.

(i) If a DWI/BWI specialty court utilizes a case management system that allows for the collection and processing of data, the DWI/BWI specialty court shall collect and provide monthly data on DWI/BWI specialty court program applicants and all DWI/BWI specialty court program participants as required by the Specialty Court Program Advisory Committee in accordance with rules promulgated under § 10-3-2901.

SECTION 5. Arkansas Code § 19-5-1144 is amended to read as follows:  
19-5-1144. Accountability Court Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Accountability Court Fund".

(b) The fund shall consist of:

- (1) Grants made by any person or federal government agency; and
- (2) Any other funds authorized or provided by law.

(c) The fund shall be used by the ~~Department of Community Correction~~ Administrative Office of the Courts for adult and juvenile specialty court programs as defined under § 16-10-139, based upon a formula to be developed by the Arkansas Judicial Council, Inc., reviewed by the Specialty Court Program Advisory Committee, and approved by the Legislative Council.

*/s/Dalby*