

State of Arkansas
95th General Assembly
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A Bill

HOUSE BILL 1835

By: Representative Dalby

By: Senator Dees

For An Act To Be Entitled

AN ACT CONCERNING SPECIALTY COURT PROGRAMS; TO AMEND THE LAW CONCERNING RECORD SEALING UPON COMPLETION OF A SPECIALTY COURT PROGRAM; TO UPDATE AND CLARIFY THE LAW CONCERNING DRUG COURT, MENTAL HEALTH COURT, VETERANS COURT, AND DWI/BWI SPECIALTY COURT PROGRAMS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING SPECIALTY COURT PROGRAMS; AND TO UPDATE AND CLARIFY THE LAW CONCERNING DRUG COURT, MENTAL HEALTH COURT, VETERANS COURT, AND DWI/BWI SPECIALTY COURT PROGRAMS.

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

SECTION 1. Arkansas Code § 5-4-906 is repealed.

~~5-4-906. Record sealing upon completion.~~

~~(a) A pre-adjudication probation program judge, on his or her own motion or upon a request from the participant in the pre-adjudication probation program, shall order sealing and dismissal of a case if:~~

~~(1) The participant in the pre-adjudication probation program has successfully completed a pre-adjudication probation program, as determined by the pre-adjudication probation program judge;~~

~~(2) The pre-adjudication probation program judge has received a recommendation from the prosecuting attorney for sealing and dismissal of the case; and~~



~~(3) The pre-adjudication probation program judge, after considering the past criminal history of the participant in the pre-adjudication probation program, determines that sealing and dismissal of the case is appropriate.~~

~~(b) Unless otherwise ordered by the pre-adjudication probation program court, sealing under this section shall be as described in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.~~

SECTION 2. Arkansas Code § 10-3-2901(b)(4), concerning the members of the Specialty Court Program Advisory Committee, is amended to read as follows:

(4) Three (3) district court judges who preside over a specialty court program as defined under § 16-10-139(a) to be appointed by the Arkansas District Judges Judicial Council, Inc.;

SECTION 3. 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 probation program under § 5-4-901 et seq.;

(2) ~~An approved~~ A drug court program under the Arkansas Drug Court Act, § 16-98-301 et seq.;

(3) ~~The~~ A 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/BWI specialty court program;

~~(B)-(5)~~ A mental health specialty court program;

~~(C)-(6)~~ A veterans treatment specialty court program;

~~(D)-(7)~~ A juvenile drug court;

~~(E)-(8)~~ A “HOPE” court; and

~~(F)-(9)~~ A ~~domestic violence specialty court program~~ family treatment court program under § 9-27-801 et seq.

(b) A specialty court program operated by a circuit court or district court must be approved by the Supreme Court in the court's administrative plan ~~submitted under Supreme Court Administrative Order 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, 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)~~ promulgated by the Specialty Court Program Advisory Committee; 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 4. Arkansas Code §§ 16-10-143 and 16-10-144 are amended to read as follows:

16-10-143. Contracts - ~~Qualified attorneys~~—Definition Specialty court counsel.

(a) ~~As used in this section, "qualified attorney" means an attorney who:~~

~~(1) Has previously been employed as an attorney by the state~~

~~regardless of the limitation provided under § 19-11-709(d); or~~

~~(2) Is currently serving as a part-time public defender or is otherwise employed by the state as an attorney on a part-time basis.~~

~~(b)~~ The Director of the Administrative Office of the Courts may employ or enter into a professional service contract with a ~~qualified~~ an attorney to serve as a specialty court team member and to represent specialty court participants.

~~(e)~~(b) The fees for contracted services provided by a ~~qualified~~ an attorney under subsection (a) of this section shall be paid from funds appropriated for that purpose to the Administrative Office of the Courts.

(c)(1) The Administrative Office of the Courts may contract with or employ an attorney who has previously been employed by the state regardless of the limitation otherwise provided under § 19-11-709(d).

(2) The Administrative Office of the Courts may also contract with or employ an attorney who currently serves as part-time public defender or is otherwise employed by the state as an attorney on a part-time basis.

~~(d)(1) A qualified attorney~~ An attorney who is employed or contracted by the Administrative Office of the Courts under this section is eligible for additional compensation.

(2) Additional compensation received for service under this section as a specialty court team member or to represent specialty court participants shall not be construed as exceeding the line-item maximum for the grade of the ~~qualified~~ attorney's other part-time position, if any.

(e) Any funds appropriated for the purpose of this section remaining on June 30 shall be retained by the Administrative Office of the Courts and may be distributed after July 1 as supplemental funding to be used for the ~~expansion or establishment of specialty court programs in circuit courts~~ support and administration of specialty court programs and for restorative and rehabilitative services to specialty court participants.

16-10-144. Contracts – Qualified treatment providers.

(a) The Director of the Administrative Office of the Courts may enter into a professional service contract with a qualified treatment provider to serve as a specialty court team member ~~and~~ or to provide behavioral health treatment to specialty court participants.

(b) The fees for contracted services provided by a qualified treatment

provider shall be paid from funds appropriated for that purpose to the Administrative Office of the Courts.

(c) Any funds appropriated for the purpose of this section remaining on June 30 shall be retained by the Administrative Office of the Courts and may be distributed after July 1 as supplemental funding for the ~~expansion or establishment of specialty court programs in circuit courts~~ support and administration of specialty court programs and for restorative and rehabilitative services to specialty court participants.

SECTION 5. Arkansas Code § 16-10-701 is amended to read as follows:
16-10-701. Additional fees for specialty court programs – Definitions.

(a) As used in this section:

(1) “Pre-adjudication” means the period of time after:

(A) The prosecuting attorney files a criminal information or an indictment is filed in circuit court;

(B) The person named in the criminal information or indictment is arraigned on the charge in circuit court; and

(C) The person enters a specialty court program ~~without a guilty plea or the person enters a plea of guilty but before the circuit court enters a judgment and pronounces~~ by entering a plea of guilty but the circuit court does not enter a judgment and pronounce a sentence against the person; and

(2) “Specialty court program” means:

(A) A pre-adjudication probation program under § 5-4-901 et seq.;

(B) ~~An approved~~ A drug court program under the Arkansas Drug Court Act, § 16-98-301 et seq.;

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

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

~~(i) A DWI court;~~

~~(ii) A mental health court;~~

~~(iii) A veteran’s court;~~

~~(iv) A juvenile drug court;~~

~~(v) A "HOPE" court;~~

~~(vi) A "smarter sentencing" court; and~~

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

DWI/BWI specialty court program under § 16-102-101 et seq.;

(E) A mental health specialty court program under § 16-100-201 et seq.;

(F) A veterans treatment specialty court program under § 16-101-101 et seq.;

(G) A juvenile drug court under § 16-98-303; and

(H) A family treatment specialty court program under § 9-27-801.

(b) In addition to any other court cost or court fee provided by law:

(1) A specialty court program user fee of up to two hundred fifty dollars (\$250) shall be assessed on any participant in a specialty court program and remitted to the Administration of Justice Funds Section by the court clerk for deposit into the State Treasury as special revenues credited to the Specialty Court Program Fund; and

(2) A specialty court program public defender user fee not to exceed two hundred fifty dollars (\$250) may be assessed by the court for a defendant who participates in a specialty court program designed for pre-adjudication purposes and who is appointed representation by a public defender and remitted to the Administration of Justice Funds Section by the court clerk for deposit into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

(c) ~~A district court or circuit court may not assess and collect a fee under this section~~ if the district court or circuit court is operating a specialty court program that has not been previously approved by or no longer meets the approval criteria of the Supreme Court.

SECTION 6. Arkansas Code § 16-90-1403(b), concerning the scope of the comprehensive criminal record sealing act, is amended to read as follows:

(b) Inconsistencies between this subchapter and any other sections within the Arkansas Code in existence January 1, 2014, are resolved in favor of this subchapter, except that this subchapter does not apply to:

(1) ~~The Arkansas Drug Court Act, § 16-98-301 et seq.;~~

~~(2) Extended juvenile jurisdiction records under § 9-27-508,~~

unless the records are considered adult criminal records under § 9-27-501 et seq.; and

~~(3)~~(2) The sealing of juvenile records.

SECTION 7. Arkansas Code Title 16, Chapter 90, is amended to add an additional subchapter to read as follows:

Subchapter 16 – Specialty Court Programs

16-90-1601. Definition.

As used in this subchapter, “specialty court program” means:

- (1) A pre-adjudication probation program under § 5-4-901 et seq.;
- (2) A drug court program under the Arkansas Drug Court Act, § 16-98-301 et seq.;
- (3) A Swift and Certain Accountability on Probation Pilot Program under § 16-93-1701 et seq.;
- (4) A DWI/BWI specialty court program under § 16-102-101 et seq.;
- (5) A mental health specialty court program under § 16-100-201 et seq.;
- (6) A veterans treatment specialty court program under § 16-101-101 et seq.;
- (7) A juvenile drug court under § 16-98-303; and
- (8) A family treatment specialty court program under § 9-27-801.

16-90-1602. Dismissal of case and record sealing by specialty court judge.

(a) Upon a participant’s successful completion of a specialty court program, a specialty court program judge may order dismissal of a case and sealing of a record if:

- (1) The specialty court program judge has received a recommendation from the prosecuting attorney for dismissal of the case and the sealing of the record; and
- (2) The specialty court program judge, after considering the offender’s past criminal history, determines that dismissal of the case and the sealing of the record are appropriate.

(b) Sealing under this subsection shall follow the procedures in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., except that:

(1) A specialty court program judge may enter an order to seal a participant's case immediately upon completion of the specialty court program; and

(2) Notwithstanding the provisions of § 16-90-1406(c)(1), there shall be no limit to the number of previous felony convictions a petitioner may have.

(c) A specialty court program judge shall not dismiss an offense of driving or boating while intoxicated and shall not order sealing until the applicable lookback periods under § 5-65-111 have elapsed.

(d) A judge presiding over a specialty court program established in circuit court may seal a conviction entered by a circuit court and a judge presiding over a specialty court program established in district court may seal a conviction entered by a district court if the following conditions are met:

(1) The participant has successfully completed the specialty court program;

(2) The participant has successfully completed the sentence entered by the other court; and

(3) The other court agreed that sealing is appropriate and has signed the uniform sealing order provided by the Arkansas Crime Information Center.

16-90-1603. Transfer of specialty court program supervision.

(a)(1) A specialty court program judge may authorize a participant to complete a specialty court program in another county with the consent of the receiving judge.

(2) A written order reflecting the authorization shall be signed by both judges.

(3) The participant's case in the originating county shall remain open until the originating court enters an appropriate order that:

(A) The court has received notification from the receiving county that the participant has successfully completed the specialty court program; or

(B) The participant did not successfully complete the specialty court program or was otherwise terminated from the specialty court program and subsequently sentenced.

(4) To ensure that multiple criminal cases are not opened for the same charge, no new criminal case shall be created by the receiving county.

(5) A specialty court program established in a circuit court may only utilize this section to authorize supervision of a program participant by another program established in a circuit court, and a DWI/BWI specialty court program may only authorize supervision of a program participant by another DWI/BWI specialty court program.

(b)(1) A participant shall comply with the policies and procedures of the receiving specialty court program.

(2) The receiving court shall be responsible for ensuring the participant's adherence to the specialty court program's policies and procedures, shall have the authority to order treatment, and shall have the authority to impose sanctions, including a period of incarceration.

(3)(A) If the receiving specialty court program judge determines that the participant has successfully completed the program, the receiving specialty court program judge shall notify the originating specialty court program judge and request that the appropriate orders be entered in the participant's case.

(B)(i) If the receiving specialty court program judge decides that the participant should be removed from the specialty court program, the receiving specialty court program judge shall enter an order returning the participant's supervision to the originating specialty court program.

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

(c)(1) All assessed fines, fees, and court costs on the underlying offenses shall be collected by the originating specialty court program.

(2) All specialty court program-related fees and costs shall be assessed and collected by the receiving specialty court program.

SECTION 8. Arkansas Code §§ 16-98-302 – 16-98-306 are amended to read

as follows:

16-98-302. Purpose and intent.

(a) There is a critical need for judicial intervention and support for effective treatment programs that reduce the incidence of drug use, drug addiction, and family separation due to parental substance abuse and drug-related crimes. It is the intent of the General Assembly for this subchapter to enhance public safety by facilitating the creation, expansion, and coordination of drug court programs.

(b) The goals of the drug court programs in this state shall be consistent with ~~the standards adopted by the United States Department of Justice and recommended by the National Association of Drug Court Professionals and shall include the following key components:~~ national standards.

~~(1) Integration of substance abuse treatment with justice system case processing;~~

~~(2) Use of a nonadversarial approach in which prosecution and defense promote public safety while protecting the right of the accused to due process;~~

~~(3) Early identification, with the use of a validated risk-needs assesment, of eligible moderate to high risk participants and prompt placement of eligible participants;~~

~~(4) Access to a continuum of treatment, rehabilitation, and related services;~~

~~(5) Frequent testing for alcohol and illicit drugs;~~

~~(6) A coordinated strategy among the judge, prosecution, defense, and treatment providers to govern offender compliance;~~

~~(7) Ongoing judicial interaction with each participant;~~

~~(8) Monitoring and evaluation of the achievement of program goals and effectiveness;~~

~~(9) Continuing interdisciplinary education to promote effective planning, implementation, and operation; and~~

~~(10) Development of partnerships with public agencies and community-based organizations to generate local support and enhance drug court effectiveness.~~

(c)(1) Drug court programs are specialized court dockets within the existing structure of the Arkansas court system. Drug court programs offer

judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases.

(2) The creation of a drug court program docket and the appointment of a circuit judge to that docket shall be approved by the administrative judge in each judicial circuit and made a part of the judicial circuit's administrative plan required by Supreme Court Administrative Order Number 14.

~~(d) Drug court program success shall be determined by the rate of recidivism of all drug court participants, including participants who do not graduate.~~

16-98-303. Drug court programs authorized.

(a)(1) Each judicial ~~district~~ circuit of this state is authorized to establish a drug court ~~program~~ programs under this subchapter.

~~(2) A drug court established under this subchapter shall be approved under § 16-10-139.~~

~~(3)(A)~~ (A) A drug court program may be pre-adjudication or post-adjudication for an adult offender or a juvenile offender.

(B) A juvenile drug court program or services may be used in a delinquency case ~~or a family in need of services case.~~

~~(C) A juvenile drug court program or services may be used in a dependency neglect case under § 9-27-334.~~

~~(4)(3)~~ (3) Notwithstanding the authorization described in subdivision (a)(1) of this section, a judge of a circuit court, drug court, or juvenile division of circuit court may not order any services or treatment under subsection (b) of this section or § 16-98-305 unless:

(A) An administrative and programmatic appropriation has been made for those purposes;

(B) Administrative and programmatic funding is available for those purposes; and

(C) Administrative and programmatic positions have been authorized for those purposes.

~~(5)(4)~~ (4) As determined by the Division of Community Correction, an adult drug court program established under this section shall target high-risk offenders and medium-risk offenders.

(b)(1) A drug court program shall incorporate services from the

Division of Community Correction, the Department of Human Services, and the Administrative Office of the Courts.

(2) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, and subject to the requirements of eligibility as defined in § 16-93-1202, the Division of Community Correction:

(A) Shall:

(i) Establish standards regarding the classification of a drug court program participant as a high-risk offender or medium-risk offender;

(ii) Provide positions for persons to serve as probation officers, drug counselors, and administrative assistants;

(iii) Provide for drug testing for drug court program participants;

(iv) Provide for intensive outpatient treatment for drug court program participants;

(v) Provide for intensive short-term and long-term residential treatment for drug court program participants; and

(vi) Develop clinical assessment capacity, including drug testing, to identify a drug court program participant with a substance addiction and develop a treatment protocol that improves the drug court program participant's likelihood of success; and

(B) May:

(i) Provide for continuous alcohol monitoring for drug court program participants, including a minimum period of one hundred twenty (120) days; and

(ii) Develop clinical assessment capacity, including continuous alcohol monitoring, to identify a drug court program participant with a substance addiction and develop a treatment protocol that improves the drug court program participant's likelihood of success.

(3) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the department shall:

(A) Provide positions for persons to serve as drug counselors and administrative assistants in delinquency cases, ~~dependency-neglect cases, and family in need of services cases;~~

(B) Provide for drug testing for drug court program

participants in delinquency cases, ~~dependency neglect cases, and family in need of services cases;~~

(C) Provide for intensive outpatient treatment for drug court program participants in delinquency cases, ~~dependency neglect cases, and family in need of services cases;~~

(D) Provide for intensive short-term and long-term residential treatment for drug court program participants in delinquency cases, ~~dependency neglect cases, and family in need of services cases;~~

(E) Certify and license treatment providers and treatment facilities that serve drug court program participants;

(F) Provide and oversee residential beds for drug court programs;

(G) Oversee catchment area facilities for drug court programs;

(H) Act as a liaison between the courts and drug court program participants; and

(I) Oversee performance standards for residential and long-term facilities providing services to drug court programs.

(4) Subject to an appropriation, funding, and position authorization, both programmatic and administrative, the Administrative Office of the Courts shall:

(A) Provide state-level coordination and support for drug court judges and their programs;

(B) Administer funds for the maintenance and operation of local approved drug court programs;

(C) Provide training and education to drug court judges and other professionals involved in drug court programs;

(D) Operate as a liaison between drug court judges and other state-level agencies providing services to drug court programs; and

(E) Develop criteria for determining new drug court locations that take into account:

(i) The current size of the defendant population that meets the criteria for drug court participation;

(ii) Recent trends indicating an increasing defendant population that meets the criteria for drug court participation;

(iii) Existing drug treatment programs currently in

place and operating through the courts, the county jail, or the Division of Correction; and

(iv) The drug court program's use of evidence-based practices by key partners involved in the prospective drug court program including those to assess the needs of drug court participants in order to effectively target programming toward high-risk participants.

(c)(1) A drug court program shall not be available to any defendant who:

(A) Has a pending charge for a violent felony against him or her;

(B) Has been convicted of a violent felony offense as defined in this subchapter or adjudicated delinquent as a juvenile of a violent felony offense; or

(C)(i) Is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(ii) The exclusion under subdivision (c)(1)(C)(i) of this section shall not apply to the offense of prostitution, § 5-70-102.

(2) Eligible offenses may be further restricted by the rules of a specific drug court program.

(3) Nothing in this subchapter shall require a drug court program judge to consider or accept every offender with a treatable condition or addiction, regardless of the fact that the controlling offense is eligible for consideration in the drug court program.

(4) Any defendant who is denied entry to a drug court program shall be prosecuted as provided by law.

(d)(1) Drug court programs may require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems.

(2) A drug court team shall be designated by a circuit judge assigned to manage the drug court program docket and may include a circuit judge, a prosecuting attorney, a public defender or private defense attorney, one (1) or more addiction counselors, one (1) or more probation officers, one (1) or more private treatment provider representatives, and any other individual or individuals determined necessary by the drug court program judge.

(3)(A) The administrative judge of the judicial district shall

designate one (1) or more circuit judges to administer the drug court program.

(B) If a county is in a judicial ~~district~~ circuit that does not have a circuit judge who is able to administer the drug court program on a consistent basis, the administrative plan for the judicial circuit required by Supreme Court Administrative Order No. 14 may designate a district court judge to administer the drug court program.

(e) Each judicial ~~district may~~ circuit shall develop a ~~training and implementation policies and procedures~~ manual for drug court programs with ~~the assistance of the:~~

- ~~(1) Department;~~
- ~~(2) Division of Elementary and Secondary Education;~~
- ~~(3) Adult Education Section;~~
- ~~(4) Division of Community Correction; and~~
- ~~(5) Administrative Office of the Courts.~~

(f) A Division of ~~Drug Court~~ Specialty Court Programs is created within the Administrative Office of the Courts. The position of ~~Drug Court~~ Specialty Court Coordinator is created within the Division of ~~Drug Court~~ Specialty Court Programs, and the ~~Drug Court~~ Specialty Court Coordinator shall:

- (1) Provide assistance, counsel, and advice to the Specialty Court Program Advisory Committee;
- (2) Serve as a coordinator between drug court judges, the Division of Community Correction, the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, private treatment provider representatives, and public health advocates;
- (3) Establish, manage, and maintain a uniform statewide drug court information system to track information and data on drug court program participants to be reviewed by the Specialty Court Program Advisory Committee;
- (4) Train and educate drug court program judges and drug court program staff in those judicial ~~districts~~ circuits maintaining a drug court program; and
- ~~(5) Provide staff assistance to the Arkansas Drug Court Professionals Association;~~
- ~~(6) Oversee the disbursement of funds appropriated to the~~

~~Administrative Office of the Courts for the maintenance and operation of local approved drug court programs based on a formula developed by the Administrative Office of the Courts and reviewed by the Specialty Court Program Advisory Committee; and~~

~~(7) Develop guidelines to be reviewed by the Specialty Court Program Advisory Committee to serve as a framework for developing effective local drug court programs and to provide a structure for conducting research and evaluation for drug court program accountability.~~

~~(g)(1) A drug court program judge, on his or her own motion or upon a request from an offender, may order dismissal of a case and the sealing of the record if:~~

~~(A) The offender has successfully completed a drug court program, as determined by the drug court program judge;~~

~~(B) The offender has received aftercare programming;~~

~~(C) The drug court program judge has received a recommendation from the prosecuting attorney for dismissal of the case and the sealing of the record; and~~

~~(D) The drug court program judge, after considering the offender's past criminal history, determines that dismissal of the case and the sealing of the record are appropriate.~~

~~(2)(A) Except as provided in subdivision (g)(2)(B) of this section, if the offender 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 Arkansas court, the drug court program judge may order sealing and dismissal of the offense falling within a target group with the written concurrence of the other Arkansas court.~~

~~(B) The following offenses are not eligible for sealing under subdivision (g)(2)(A) of this section:~~

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

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

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

~~(iv) The fourth and subsequent offense of driving while intoxicated, § 5-65-103.~~

~~(3) Unless otherwise ordered by the drug court program judge, sealing under this subsection shall be as described in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.~~

16-98-304. Cost and fees.

(a) The adult or juvenile drug court program judge may order the offender to pay:

- (1) Court costs as provided in § 16-10-305;
- (2) Treatment costs;
- (3) Drug testing costs;
- (4) A local drug court program user fee;
- (5) Necessary supervision fees, including any applicable residential treatment fees;
- (6) Any fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) that are to be paid to the ~~Department~~ Division of Community Correction;
- (7) Global Positioning System monitoring; and
- (8) Continuous alcohol monitoring fees.

(b)(1) The drug court program judge shall establish a schedule for the payment of 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 respectively and made part of the order of the drug court program judge for payment.

(3) ~~Program~~ Drug court program user fees shall be set by the drug court program judge.

(4) Treatment, drug testing, continuous alcohol monitoring if ordered, and supervision costs or fees shall be paid to the respective providers.

(5) Fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) shall be paid to the ~~Department~~ Division of Community Correction.

(6)(A) All court costs and program user fees assessed by the drug court judge shall be paid to the ~~court clerk~~ designated collector 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) Local program user fees shall be credited to a fund known as the “drug court program fund” and appropriated by the quorum court for the benefit and administration of the drug court program.

(7) Court orders for costs and fees shall remain an obligation of the offender with court monitoring until fully paid.

(c) A circuit court may not assess and collect a fee if the circuit court is operating a specialty court program that has not previously been approved or no longer meets the approval criteria of the Supreme Court.

16-98-305. Required resources.

Each approved drug court program established under this subchapter, subject to an appropriation, funding, and position authorization, both programmatic and administrative, shall be provided with the following resources:

(1) The ~~Department~~ Division of Community Correction shall provide the following pursuant to § 16-98-303(b)(2) for adult offenders:

~~(A)(i) Except as provided in subdivision (1)(A)(ii) of this section, provide a~~ A minimum of one (1) drug counselor position for every thirty (30) drug court program participants;

~~(ii) If a drug court judge does not require the drug counselor position or positions described in subdivision (1)(A)(i) of this section, funding for a drug counselor or counselors shall be provided under subdivision (1)(E)(i) of this section;~~

(B) ~~Provide a~~ A minimum of one (1) probation officer position for every forty (40) drug court participants;

(C) ~~Provide a~~ A minimum of one (1) administrative assistant position for each drug court program; and

(D) ~~Provide for drug~~ Drug screens and testing as needed; and

~~(E)(i) Based upon a formula to be developed by the Administrative Office of the Courts, reviewed by the Specialty Court Program Advisory Committee, and approved by the Legislative Council, provide for:~~

~~(a) Intensive outpatient treatment to be made available to the drug court program in each judicial district;~~

~~(b) Short term and long term inpatient treatment to be made available to the drug court program in each judicial district; and~~

~~(c) A drug court judge to contract with a local licensed treatment provider for counseling services for drug court participants so that each privately contracted addiction counselor does not have more than thirty (30) drug court participants in his or her caseload.~~

~~(ii) The Department of Community Correction shall enter into an interagency memorandum of understanding with the Administrative Office of the Courts in order to establish the process and procedures for the payment of treatment services ordered by a drug court judge and funded through the Department of Community Correction.~~

~~(iii) Expenditures of funds for treatment services allocated to each approved drug court program under the formula described in subdivision (1)(E)(i) of this section shall be at the direction of a drug court judge, except as limited by the procedures adopted in the memorandum of understanding described in subdivision (1)(E)(ii) of this section;~~

(2) The Department of Human Services shall:

(A) Provide a minimum of one (1) drug counselor position for every thirty (30) drug court program participants in delinquency cases, ~~dependency neglect cases, and family in need of services cases;~~

(B) Provide for drug screens and testing as needed in delinquency cases, dependency-neglect cases, ~~and family in need of services cases;~~ and

(C) Provide for intensive outpatient treatment and short-term and long-term inpatient treatment to be made available to the drug court program in each judicial district in delinquency cases, ~~dependency neglect cases, and family in need of services cases~~ based upon a formula developed by the Administrative Office of the Courts and reviewed by the Specialty Court Program Advisory Committee; and

(3) The Administrative Office of the Courts shall:

~~(A) Provide funding to be reviewed by the Specialty Court Program Advisory Committee for additional ongoing maintenance and operation costs of a local approved drug court program not provided by the Department of Community Correction or the Department of Human Services, including local drug court program supplies, education, travel, and related expenses;~~

~~(B)~~ Provide direct support to the drug court program judge and drug court program;

~~(C)~~~~(B)~~ Provide coordination between the multidisciplinary team and the drug court judge;

~~(D)~~~~(C)~~ Provide case management;

~~(E)~~ ~~Monitor compliance of drug court participants with drug court program requirements;~~ and

~~(F)~~~~(D)~~ Provide assistance and support to the Specialty Court Program Advisory Committee for the evaluation of adult and juvenile specialty court programs.

16-98-306. Collection of data.

(a)(1) An approved drug court program shall collect and provide monthly data on drug court program applicants and all participants as required by the Specialty Court Program Advisory Committee in accordance with the rules promulgated under § 10-3-2901.

(2) The data ~~shall~~ may include:

(A) The total number of applicants;

(B) The total number of participants;

(C) The total number of successful applicants;

(D) The total number of successful participants;

(E) The total number of unsuccessful participants and the reason why each unsuccessful participant did not complete the drug court program;

~~(F)~~ ~~Information about what happened to each unsuccessful participant;~~

~~(G)~~ The total number of participants who were arrested for a new criminal offense while in the drug court program;

~~(H)~~~~(G)~~ The total number of participants who were convicted of a new criminal offense while in the drug court program;

~~(I)~~~~(H)~~ The total number of participants who committed a violation of one (1) or more conditions of the drug court program and the resulting sanction;

~~(J)~~~~(I)~~ The results of the initial risk-needs assessment or other appropriate clinical assessment conducted on each participant;

~~(K)~~~~(J)~~ The total amount of time each drug court program

participant was in the drug court program; and

~~(L)~~(K) Any other data or information as required by the Specialty Court Program Advisory Committee in accordance with the rules promulgated under § 10-3-2901.

~~(b) The data collected for evaluation purposes under subsection (a) of this section shall:~~

~~(1) Include a minimum standard data set developed and specified by the Specialty Court Program Advisory Committee; and~~

~~(2) Be maintained in the court files or be otherwise accessible by the courts and the Specialty Court Program Advisory Committee~~ Each court operating a specialty court program shall utilize the case management system provided by the Administrative Office of the Courts to maintain data on applicants and program participants.

(c)(1) As directed by the Specialty Court Program Advisory Committee, after an individual is discharged either upon completion or termination of a drug court program, the drug court program shall conduct, as much as practical, follow-up contacts with and reviews of former drug court program participants for key outcome indicators of drug use, recidivism, and employment.

(2)(A) The follow-up contacts with and reviews of former drug court program participants shall be conducted as frequently and for a period of time as determined by the Specialty Court Program Advisory Committee based upon the nature of the drug court program and the nature of the participants.

(B) The follow-up contacts with and reviews of former drug court participants are not extensions of the drug court's jurisdiction over the drug court participants.

(d) For purposes of standardized measurement of success of drug court programs across the state, the Specialty Court Program Advisory Committee ~~shall~~ may adopt an operational definition of terms such as "recidivism", "retention", "relapses", "restarts", "sanctions imposed", and "incentives given" to be used in any evaluation and report of drug court programs.

(e) Each ~~drug~~ specialty court program shall provide to the Specialty Court Program Advisory Committee and the Administrative Office of the Courts Specialty Court Division all information requested ~~by the Specialty Court Program Advisory Committee.~~

(f) ~~The Division of Drug Court Programs~~ Administrative Office of the

Courts, the Division of Community Correction, the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, and the Arkansas Crime Information Center shall work together to share and make available data to provide a comprehensive data management system for the state's drug court programs.

(g) The Administrative Office of the Courts shall collect monthly data reports submitted by approved drug ~~courts~~ court programs and provide the monthly data reports to the Specialty Court Program Advisory Committee.

~~(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 specialty courts; and~~

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

SECTION 9. Arkansas Code § 16-100-101(2), concerning definitions related to mental health and the judicial system, is amended to read as follows:

(2) "Mental illness" means a condition of a person who has or has had in the past a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified by the Diagnostic and Statistical Manual of Mental Disorders ~~as it existed on January 1, 2017,~~ that has resulted in functional impairment that substantially interferes with or limits one (1) or more major life activities; and

SECTION 10. Arkansas Code § 16-100-202(b), concerning the goals of a mental health specialty court program, is repealed.

~~(b) Mental health specialty court program success is determined by the rate of recidivism of all mental health specialty court program participants, including mental health specialty court program participants who do not graduate from the mental health specialty court program.~~

SECTION 11. Arkansas Code § 16-100-204 is amended to read as follows:
16-100-204. Administration of mental health specialty court program.

(a) A mental health specialty court program may require a separate

judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems.

(b)(1) The administrative judge of the judicial ~~district~~ circuit shall designate one (1) or more circuit judges to be mental health specialty court judges and to administer the mental health specialty court program.

(2) If a county is in a judicial ~~district~~ circuit that does not have a circuit judge who is able to administer the mental health specialty court program on a consistent basis, the administrative plan for the judicial circuit required by Supreme Court Administrative Order ~~No.~~ Number 14 may designate a district court judge to be a mental health specialty court judge and to administer the mental health specialty court program.

(c) A mental health specialty court team shall be designated by a mental health specialty court judge and may include:

- (1) A circuit judge;
- (2) A prosecuting attorney;
- (3) A public defender or private defense attorney;
- (4) One (1) or more healthcare providers with experience in the field of mental health treatment;
- (5) One (1) or more probation officers;
- (6) One (1) or more private mental health treatment provider representatives with experience in the field of mental health treatment; and
- (7) Any other individual determined necessary by the mental health specialty court judge.

(d) Each judicial ~~district may~~ circuit shall develop a training and implementation manual for the mental health specialty court program with the assistance of the:

- (1) Department of Human Services;
- (2) Department of Health;
- (3) Division of Community Correction;
- (4) Administrative Office of the Courts; and
- (5) Other federal, state, and local agencies, organizations, or entities with an established history of expertise in mental health conditions.

SECTION 12. Arkansas Code § 16-100-208 is amended to read as follows:
16-100-208. Completion of program – Dismissal of case – Sealing of

record.

~~(a) Upon the mental health specialty court's own motion or upon a request from a mental health specialty court program participant or his or her attorney, a mental health specialty court may order dismissal of the case against the mental health specialty court program participant and the sealing of the record if:~~

~~(1) The mental health specialty court program participant has successfully completed the mental health specialty court program, as determined by the mental health specialty court;~~

~~(2) The mental health specialty court program participant has received aftercare programming or a course of continuing mental health treatment if recommended by the mental health specialty court program participant's healthcare provider;~~

~~(3) The mental health specialty court has received a recommendation from the prosecuting attorney for dismissal of the case and the sealing of the record; and~~

~~(4) The mental health specialty court, after considering the mental health specialty court program participant's criminal history, determines that dismissal of the case and the sealing of the record are appropriate.~~

~~(b) Unless otherwise ordered by the mental health specialty court, sealing of the record under this section shall be as described in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.~~

~~(c) If a mental health specialty court program participant has successfully completed the program and has his or her case dismissed under this section § 16-9-1602, he or she may petition the mental health specialty court for relief from disability to restore the mental health specialty court program participant's right to purchase a firearm and to otherwise be removed from the Federal Bureau of Investigation's National Instant Criminal Background Check System database.~~

SECTION 13. Arkansas Code § 16-101-101 is amended to read as follows:

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.~~ Number 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~~ national standards.

(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.

SECTION 14. Arkansas Code § 16-101-106 is repealed.

~~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 15. Arkansas Code § 16-102-102(d)(1), concerning the jurisdiction of a DWI/BWI specialty court program, is amended to read as follows:

(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.~~

SECTION 16. Arkansas Code § 16-102-102(g), concerning probation

services in a DWI/BWI specialty court program, is amended to read as follows:

(g) ~~Subject to~~ Under § 5-65-108, ~~probation and any other services ordered by~~ the DWI/BWI specialty court ~~shall be ordered~~ may utilize probationary supervision to monitor a person's compliance with program requirements and other court orders after the person pleads guilty or nolo contendere to driving or boating while intoxicated, § 5-65-103.