

CHAPTER NO. 335

HOUSE BILL NO. 1253

By Representatives McMillan, Pinion, Overbey and Mr. Speaker Naifeh and Representatives Black, Sontany, DuBois, Hood, Coleman

Substituted for: Senate Bill No. 12

By Senators Trail, Bryson, Herron, Ketron, Person, Crowe, Fowler

AN ACT to amend Tennessee Code Annotated, Title 16, to enact the "Drug Court Treatment Act of 2003" relative to establishing and funding drug courts in the state of Tennessee and to provide for their powers and duties.

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

SECTION 1. Tennessee Code Annotated, Title 16, is amended by adding the following as a new Chapter 22:

Section 16-22-101. This chapter shall be known and may be cited as the "Drug Court Treatment Act of 2003".

Section 16-22-102.

(a) The General Assembly recognizes that a critical need exists in this state for criminal justice system programs to reduce the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. It is the intent of the General Assembly by this chapter to create a program to facilitate the implementation of new and the continuation of existing drug court treatment programs.

(b) The goals of the drug court treatment programs created under this chapter include the following:

(1) Reduce the use of jail and prison beds and other correctional services by non-violent chemically dependent offenders by diverting them into rehabilitative programs;

(2) Reduce incidences of drug use and drug addiction among offenders;

(3) Reduce crimes committed as a result of drug use and addiction;

(4) Promote public safety through these reductions;

(5) Increase the personal, familial, and societal accountability of offenders; and

(6) Promote effective interaction and the use of resources among local criminal justice agencies and community agencies.

Section 16-22-103. For purposes of this chapter:

(a) "Drug Court Treatment Program" means any Drug Court Treatment Program created within the state that follows the general principles referenced in § 16-22-104 and that is established by the judge of a court in Tennessee exercising criminal jurisdiction. A "Drug Court Treatment Program" shall have the same powers as the court that created it.

(b) "Chemically dependant" means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by two (2) or more of the pre-determinate symptoms occurring at any time in the same twelve (12) month period.

(c) "Non-adversarial approach" means that the district attorney general and the defense attorney work together for the benefit of the drug court treatment program participants and the program. Any disagreements are to be resolved prior to court, and not in front of the participants.

(d) "Violent offender" means a person who:

(1) Is charged with or convicted of an offense, during the course of which offense or conduct:

(A) The person carried, possessed, or used a firearm or dangerous weapon;

(B) There occurred the death of or serious bodily injury to any person; or

(C) There occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A), (B), or (C) is an element of the offense or conduct of which or for which the person is charged or convicted; or

(2) Has one (1) or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

Section 16-22-104. All Drug Court Treatment Programs in Tennessee shall be established and operate according to the following general principles as established by the National Association of Drug Court Professionals, Drug Court Standards Committee:

(a) Drug courts integrate alcohol and other drug treatment services with justice system case processing;

(b) Drug courts use a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights;

(c) Drug courts identify eligible participants early and promptly place them in the drug court treatment program;

(d) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;

(e) Drug courts monitor abstinence by frequent alcohol and other drug testing;

(f) Drug courts use a coordinated strategy to govern responses to participants' compliance;

(g) Drug courts use ongoing judicial interaction with each drug court participant as an essential component of the program;

(h) Drug courts utilize monitoring and evaluation to measure the achievement of program goals and gauge effectiveness;

(i) Drug courts employ continuing interdisciplinary education to promote effective drug court planning, implementation, and operations; and

(j) Drug courts forge partnerships among the court, public agencies, and community-based organizations to generate local support and enhance drug court effectiveness.

Section 16-22-105. The department of finance and administration, office of criminal justice programs, shall administer the drug court treatment program by:

(a) Defining, developing and gathering outcome measures for drug court treatment programs as relates to § 16-22-102;

(b) Collecting, reporting, and disseminating drug court treatment data;

(c) Supporting a state drug treatment "mentor" program;

(d) Sponsoring and coordinating state drug court treatment training; and

(e) Awarding, administering, and evaluating state drug court treatment grants.

Section 16-22-106. Through the office of criminal justice programs, a court exercising criminal jurisdiction within the state of Tennessee may apply for drug court treatment program grant funds to:

(a) Fund a full-time or part-time program director position;

(b) Fund drug court treatment staff whose job duties are directly related to program operations;

(c) Fund substance abuse treatment and other direct services for drug court treatment participants;

(d) Fund drug testing;

(e) Fund program costs directly related to program operations;
and

(f) Implement or continue drug court treatment program operations.

Section 16-22-107. Office of criminal justice program grant awards may not be:

(a) Used to pay for wages not directly related to drug court treatment program operations;

(b) Made to any court that does not agree to operate its program in accordance with the principles in Section 16-22-104;

(c) Used for construction or land acquisition;

(d) Used to pay bonuses or commissions to any individuals or organizations; or

(e) Used to form a corporation.

Section 16-22-108.

(a) The commissioner of finance and administration shall establish an advisory committee composed of five (5) members. The committee shall review all program criteria established by office of criminal justice programs and shall advise the commissioner on the allocation of funds under this part. Before appointing the members, the commissioner shall consult with the president of the Tennessee Association of Drug Court Professionals, the president of the Tennessee Association of Alcohol and Drug Abuse Services and the Tennessee Association of Mental Health Organizations. After the commissioner establishes staggered terms with the initial appointments, a member shall have a four (4) year term, and a member may be appointed to serve one additional consecutive term. Each member shall be reimbursed from the drug court treatment program resources fund established in Section 16-22-110 for travel expenses for attending a meeting of the advisory committee in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

Section 16-22-109.

(a) The clerks of all courts of general sessions, circuit and criminal courts and municipal courts exercising the jurisdiction of courts of general sessions, shall collect the sum of seventy-five dollars (\$75.00) from any person who:

(1) Enters a plea of guilty;

(2) Enters a plea of nolo contendere;

(3) Is adjudicated at trial; or

(4) Enters a plea pursuant to any of the diversionary sentencing statutes to any criminal offense described below, or for attempt or conspiracy to commit any such offense, or for aiding, abetting, or acting in the capacity of an accessory in the commission of any such offense.

(b) The fee established in Subsection (a) applies to any offense under Tennessee Code Annotated, Title 39, Chapter 17, Part 4, the Tennessee Drug Control Act.

(c) This assessment shall be subject to the provisions of § 8-21-401(a)(6) and shall be in addition to all other taxes, costs and fines. The first five dollars (\$5.00) of each such assessment shall be paid to the clerks of the court imposing assessment, who shall transfer it to the state treasurer, who shall credit same to the general fund and earmark same for use by Tennessee department of finance and administration, office of criminal justice programs for funding drug court treatment program administration and funding such grant awards as are made by the Tennessee department of finance and administration, office of criminal justice programs. The remainder of such assessments shall be deposited by the clerk of the collecting court into a dedicated county fund. Such fund shall not revert to the county general fund at the end of the fiscal year but shall remain for the purposes set out in this section. Any such money shall be used by the county exclusively for the creation and maintenance of state drug court treatment programs as defined in §16-22-104. In the event no drug court treatment program operates in a county, the remainder of the funds from such county shall be remitted annually in full to the State of Tennessee to be placed in the "Drug Court Resources Fund" to be administered by the Tennessee department of finance and administration, office of the criminal justice programs in accordance with § 16-22-109. The comptroller's regular audit of a local government shall also include the dedicated county fund established by this section.

Section 16-22-110. The assessment collected and remitted to the state of Tennessee shall be placed in a "Drug Court Treatment Program Resources Fund" for the purposes of funding drug court treatment program administration and the grant awards as provided in §§ 16-22-105 and 16-22-106. The office of criminal justice programs shall administer the money in the "Drug Court Treatment Program Resources Fund". Any unspent money shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each year, but shall remain deposited to the credit of the "Drug Court Treatment Program Resources Fund" for future allocation.

Section 16-22-111. Nothing contained in this chapter shall confer a right or an expectation of a right to treatment for an offender within the criminal justice system.

Section 16-22-112. Nothing in this chapter shall be construed to limit the ability of any jurisdiction to create or maintain a Drug Court Treatment Program that adheres to the guidelines set forth in Section 16-22-104.

Section 16-22-113. Each participant in a drug court treatment program shall be:

(a) Non-violent offenders, as defined in Section 2203, Title V of the "Violent Crime Control and Law Enforcement Act of 1994", Public Law 103-322;

(b) Substance abusing and/or chemically dependant; and

(c) Willing to participate in a treatment program.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision of the act, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.

PASSED: May 27, 2003


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 13th day of June 2003


PHIL BRØDRESEN, GOVERNOR