

By: Representative Barnett (92nd)

To: Judiciary A;
Appropriations

HOUSE BILL NO. 1257

1 AN ACT TO PROVIDE FOR DRUG COURT TREATMENT PROGRAMS; TO
2 SPECIFY THE PURPOSE AND GOALS OF THIS ACT; TO DEFINE CERTAIN
3 TERMS; TO PROVIDE REQUIREMENTS FOR PARTICIPATION IN SUCH PROGRAMS;
4 TO PROVIDE FOR THE ADMINISTRATION OF SUCH PROGRAMS; TO PROVIDE
5 THAT SUCCESSFUL COMPLETION OF A DRUG DIVISION PROBATION PROGRAM
6 MAY RESULT IN EXPUNCTION OF CRIMINAL RECORD; AND FOR RELATED
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** (1) The Legislature of Mississippi recognizes
10 the critical need for judicial programs to reduce the incidence of
11 alcohol and drug use, alcohol and drug addiction, and crimes
12 committed as a result of alcohol and drug use and alcohol and drug
13 addiction. It is the intent of the Legislature to create a
14 program to facilitate the creation, certification, support, and
15 funding of local drug court programs adaptable to chancery,
16 circuit and youth courts.

17 (2) "Drug Court," for the purpose of this act, means an
18 immediate and highly structured intervention process for substance
19 abuse treatment of eligible defendants or juveniles that:

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

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

25 **SECTION 2.** The goals of the drug court programs funded under
26 this act include the following:

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



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

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

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

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

40 **SECTION 3.** (1) The Mississippi Drug Courts Program Office
41 is established within the structure of the Administrative Office
42 of Courts to facilitate the creation, certification, support and
43 funding of local drug court programs.

44 (2) The Supreme Court may hire four (4) employees to
45 accomplish statewide administration of the drug court program; one
46 (1) employee shall be the statewide director of drug court
47 implementation as a deputy position to the director of the
48 Administrative Office of Courts, and the remaining three (3)
49 authorized positions shall be deputy drug court directors who
50 shall be hired from each Supreme Court district to coordinate
51 implementation of the drug court program in the courts located
52 within that Supreme Court district under the supervision of the
53 statewide director.

54 **SECTION 4.** (1) The State Drug Courts Advisory Committee is
55 established to develop and periodically update proposed statewide
56 evaluation plans and models for monitoring all critical aspects of
57 drug court programs. The committee must provide these proposed
58 evaluation plans to the Chief Justice and the Mississippi Drug
59 Courts Program Office. The Committee shall be chaired by the
60 Director of the Administrative Office of Courts and shall consist
61 of not less than seven (7) members appointed by the Director and
62 broadly representative of the courts, law enforcement,



63 corrections, juvenile justice, child protective services, and
64 substance abuse treatment communities.

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

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

77 **SECTION 5.** (1) Before a court can establish an alcohol and
78 drug services program, it must ensure that;

79 (a) The drug court is certified by the committee; and

80 (b) The court that established the drug court
81 determines that in order to fully implement the purposes of the
82 program that the treatment or rehabilitation service is necessary.

83 (2) A court having jurisdiction in a city, county or
84 district may establish an alcohol and drug services program.

85 (3) Each individual drug court judge may establish rules and
86 may make special orders and rules as necessary which shall not be
87 in conflict with rules promulgated by the Supreme Court.

88 (4) In order to be eligible for the local drug court
89 program, the participant must satisfy each of the following
90 criteria:

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

93 (b) The crime before the court cannot be a crime of
94 violence, including domestic violence.



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

97 (d) The participant cannot have been convicted of
98 burglary of an inhabited dwelling if the participant has a record
99 of one or more prior felony convictions.

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

103 (f) The crime charged cannot be one of distribution,
104 possession with intent to distribute, production, manufacture or
105 cultivation of controlled dangerous substances.

106 (5) Except as provided in Section 5 of this act, an alcohol
107 and drug services program and accompanying services and treatment
108 facilities shall be open only to the individuals over whom the
109 court has jurisdiction.

110 (6) The court may agree to provide the services and
111 facilities of a program for individuals referred from another
112 court. For circuit cases transferred from another jurisdiction,
113 the receiving judge shall act as a special master and make
114 recommendations to the sentencing judge for further action,
115 adjudication, etc.

116 (7) (a) A program may provide for eligible individuals a
117 range of necessary intervention services, including the following:

118 (i) Screening for eligibility and other
119 appropriate services;

120 (ii) Clinical assessment;

121 (iii) Education;

122 (iv) Referral;

123 (v) Service coordination and case management.

124 (b) A program may also provide a range of necessary
125 treatment and rehabilitation services, including the following:

126 (i) Emergency services;

127 (ii) Detoxification;



128 (iii) Counseling;

129 (iv) Rehabilitative care.

130 (8) Before an alcohol and drug services program may be
131 established, the court must do the following: Have a written
132 statement from the Mississippi Drug Courts Program Office
133 approving the establishment of the program and the plans for
134 operation.

135 (9) The court must submit a petition for approval to the
136 Mississippi Drug Courts Program Office containing the following:

137 (a) A full description of a proposed program.

138 (b) A budget for the program, supported by statistics
139 showing the total fines and costs collected by the court in the
140 most recent year.

141 (c) Details on the implementation of the program.

142 (10) The court is responsible for the administration of the
143 program.

144 (11) The court may appoint such full or part-time employees
145 it deems necessary to implement the program.

146 (12) Program employees or contractors shall perform duties
147 the court assigns.

148 (13) As used in this act:

149 (a) "Committee" refers to the State Drug Courts
150 Advisory Committee established under Section 4 of this act.

151 (b) "State Drug Courts Program Office" means the office
152 created in Section 3 that shall facilitate the creation,
153 certification, support, and funding to local drug court programs.

154 (c) "Effective date" means the date established by the
155 committee after which minimum employment standards will be
156 required for persons employed in court drug and alcohol programs.

157 (14) A program established under this act is subject to the
158 regulatory powers of the Mississippi Drug Courts Program Office
159 established by this act.



160 (15) With regard to alcohol and drug services programs
161 established under this act, the Mississippi Drug Courts Program
162 Office may do the following:

163 (a) Ensure that programs comply with rules adopted
164 under this section and applicable federal regulations.

165 (b) Revoke the authorization of a program upon a
166 determination that the program does not comply with rules adopted
167 under this section and applicable federal regulations.

168 (c) Make agreements and contracts to effectuate the
169 purposes of this act with:

170 (i) Another department, authority, or agency of
171 the state;

172 (ii) Another state;

173 (iii) The federal government;

174 (iv) A state supported or private university; or

175 (v) A public or private agency.

176 (d) Directly, or by contract, approve and certify
177 programs established under this act.

178 (e) Require, as a condition of operation, that each
179 program created or funded under this act be certified according to
180 rules established by the Mississippi Drug Courts Program Office.

181 (f) Adopt rules to implement this act.

182 (16) (a) The costs of an alcohol and drug services program
183 established under this act shall be paid out of user fees and such
184 other state, federal or private funds that may from time to time
185 be made available for same.

186 (b) The court shall fix the compensation of employees
187 and contractors.

188 (c) The court may assess such reasonable fees for
189 participation in the program or sanctions that it deems
190 appropriate.

191 (d) All monies received from any source by the drug
192 program shall be accumulated in a county or city fund to be used



193 only for drug court purposes. Any funds remaining in this fund at
194 the end of a fiscal year shall not lapse into any general fund,
195 but shall be retained in said fund for the funding of further
196 activities by the drug court.

197 (17) A program may apply for and receive the following:

198 (a) Gifts, bequests, and donations from private
199 sources.

200 (b) Grant and contract money from governmental sources.

201 (c) Other forms of financial assistance approved by the
202 court to supplement the budget.

203 (18) (a) The Mississippi Drug Courts Program fund is
204 established for the purpose of administering, certifying, and
205 supporting alcohol and drug services programs under this act. The
206 fund shall be administered by the Mississippi Drug Courts Program
207 Office established under this act.

208 (b) The Treasurer shall invest the money in the fund
209 not currently needed to meet the obligations of the fund in the
210 same manner as other public funds may be invested.

211 (c) Money in the fund at the end of the fiscal year
212 does not revert to the state general fund.

213 (19) "Chemical tests" means the analysis of an individual's:
214 (a) blood, (b) breath, (c) hair, (d) sweat, (e) saliva, (f) urine;
215 or (g) other bodily substance to determine the presence of alcohol
216 or a controlled substance.

217 (20) (a) As a condition of participation in an alcohol and
218 drug services program, a participant may be required to undergo a
219 chemical test or a series of chemical tests as specified by the
220 program. A participant is liable for the costs of all chemical
221 tests required under this section, regardless of whether the costs
222 are paid to the court's alcohol and drug services program or the
223 laboratory.

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



226 (21) (a) A person does not have a right to participate in
227 an alcohol and drug services program under this act.

228 (b) The director and members of the professional and
229 administrative staff of an alcohol and drug services program who
230 perform duties in good faith under this act are immune from civil
231 liability for:

232 (i) Acts or omissions in providing services under
233 this act; and

234 (ii) The reasonable exercise of discretion in
235 determining eligibility to participate in an alcohol and drug
236 services program.

237 (22) If the participant completes the local drug court
238 program and all requirements of his court orders, including the
239 payment of fines and fees assessed, the charge and prosecution
240 shall be dismissed. If the defendant or participant was sentenced
241 at the time of entry of plea of guilty, the successful completion
242 of the drug court program and other requirements of probation or
243 suspension of sentence will result in the record of criminal
244 conviction being expunged. However, no expunction of any implied
245 consent violation shall be allowed.

246 **SECTION 6.** This act shall take effect and be in force from
247 and after July 1, 2003.

