

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2605

By Representative(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

8 SECTION 1. This act shall be known and may be cited as the
9 Alyce G. Clarke Drug Court Act.

10 SECTION 2. (1) The Legislature of Mississippi recognizes
11 the critical need for judicial intervention to reduce the
12 incidence of alcohol and drug use, alcohol and drug addiction, and
13 crimes committed as a result of alcohol and drug use and alcohol
14 and drug addiction. It is the intent of the Legislature to
15 facilitate local drug court alternative orders adaptable to
16 chancery, circuit, county, youth, municipal and justice courts.

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

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

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

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

26 (d) To increase personal, familial and societal
27 accountability of adult and juvenile offenders and defendants and

28 respondents in juvenile petitions for abuse, neglect or both; and

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

32 **SECTION 3.** For the purposes of this act, the following words
33 and phrases shall have the meanings ascribed unless the context
34 clearly requires otherwise:

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

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

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

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

47 **SECTION 4.** The Administrative Office of Courts shall be
48 responsible for certification and monitoring of local drug courts
49 according to standards promulgated by the State Drug Courts
50 Advisory Committee.

51 **SECTION 5.** (1) The State Drug Courts Advisory Committee is
52 established to develop and periodically update proposed statewide
53 evaluation plans and models for monitoring all critical aspects of
54 drug courts. The committee must provide these proposed evaluation
55 plans to the Chief Justice and the Administrative Office of
56 Courts. The committee shall be chaired by the Director of the
57 Administrative Office of Courts and shall consist of not less than
58 seven (7) members nor more than eleven (11) members appointed by
59 the Supreme Court and broadly representative of the courts, law
60 enforcement, corrections, juvenile justice, child protective
61 services and substance abuse treatment communities.

62 (2) The State Drug Courts Advisory Committee may also make

63 recommendations to the Chief Justice, the Director of the
64 Administrative Office of Courts and state officials concerning
65 improvements to drug court policies and procedures. The committee
66 may make suggestions as to the criteria for eligibility, and other
67 procedural and substantive guidelines for drug court operation.

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

73 **SECTION 6.** (1) A drug court may establish an alcohol and
74 drug intervention component, provided that all the following
75 requirements are met:

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

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

82 (c) The court must submit a petition for approval to
83 the Administrative Office of Courts containing the following:

84 (i) A full description of a proposed intervention
85 component.

86 (ii) A budget supported by statistics.

87 (iii) Details on the implementation of the
88 intervention component.

89 (2) Each individual drug court judge may establish rules and
90 may make special orders and rules as necessary that do not
91 conflict with rules promulgated by the Supreme Court.

92 (3) A drug court may appoint such full- or part-time
93 employees as it deems necessary for the work of the drug court and
94 shall fix the compensation of those employees, subject to the
95 approval of the State Personnel Board. Those employees shall
96 serve at the will and pleasure of the judge or the judge's
97 designee.

98 (4) Drug court employees or contractors shall perform duties
99 the court assigns.

100 (5) A drug court established under this act is subject to
101 the regulatory powers of the Administrative Office of Courts as
102 set forth in Section 9 of this act.

103 (6) Each individual drug court is responsible for the
104 administration of the drug and alcohol intervention component of
105 that court.

106 (7) (a) The costs of participation in an alcohol and drug
107 services component required by the drug court established by this
108 act shall be paid by the participant, out of user fees and/or such
109 federal or private funds that may, from time to time, be made
110 available.

111 (b) The court may assess such reasonable fees for
112 participation and may impose sanctions that it deems appropriate.

113 **SECTION 7.** (1) A drug court's alcohol and drug intervention
114 component may provide for eligible individuals a range of
115 necessary court intervention services, including, but not limited
116 to, the following:

117 (a) Screening for eligibility and other appropriate
118 services;

119 (b) Clinical assessment;

120 (c) Education;

121 (d) Referral;

122 (e) Service coordination and case management; and

123 (f) Counseling and rehabilitative care.

124 (2) Any inpatient treatment or inpatient detoxification
125 program ordered by the court shall be certified by the Department
126 of Mental Health, other appropriate state agency or the equivalent
127 agency of another state.

128 **SECTION 8.** (1) In order to be eligible for alternative
129 sentencing through a local drug court, the participant must
130 satisfy each of the following criteria:

131 (a) The crime before the court must be a crime of
132 possession of a controlled substance;

133 (b) The participant cannot have any prior felony
134 convictions; and

135 (c) Other criminal proceedings alleging commission of a
136 crime of violence, burglary of an occupied dwelling, driving under
137 the influence of alcohol or any other drug or drugs, or
138 distribution, sale, possession with intent to distribute,
139 production, manufacture or cultivation of controlled substances
140 cannot be pending against the participant.

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

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

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

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

161 **SECTION 9.** With regard to any drug court established under
162 this act, the Administrative Office of Courts may do the
163 following:

164 (a) Ensure that the structure of the intervention
165 component complies with rules adopted under this section and
166 applicable federal regulations.

167 (b) Revoke the authorization of a program upon a

168 determination that the program does not comply with rules adopted
169 under this section and applicable federal regulations.

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

172 (i) Another department, authority or agency of the
173 state;

174 (ii) Another state;

175 (iii) The federal government;

176 (iv) A state-supported or private university; or

177 (v) A public or private agency, foundation,
178 corporation or individual.

179 (d) Directly, or by contract, approve and certify any
180 intervention component established under this act.

181 (e) Require, as a condition of operation, that each
182 drug court created or funded under this act be certified by the
183 Administrative Office of Courts.

184 (f) Adopt rules to implement this act.

185 **SECTION 10.** (1) All monies received from any source by the
186 drug court shall be accumulated in a fund to be used only for drug
187 court purposes. Any funds remaining in this fund at the end of a
188 fiscal year shall not lapse into any general fund, but shall be
189 retained in the drug court fund for the funding of further
190 activities by the drug court.

191 (2) A drug court may apply for and receive the following:

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

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

194 (c) Other forms of financial assistance approved by the
195 court to supplement the budget of the drug court.

196 **SECTION 11.** The director and members of the professional and
197 administrative staff of the drug court who perform duties in good
198 faith under this act are immune from civil liability for:

199 (a) Acts or omissions in providing services under this
200 act; and

201 (b) The reasonable exercise of discretion in
202 determining eligibility to participate in the drug court.

203 **SECTION 12.** If the participant completes all requirements
204 imposed upon him by the drug court, including the payment of fines
205 and fees assessed, the charge and prosecution shall be dismissed.

206 If the defendant or participant was sentenced at the time of
207 entry of plea of guilty, the successful completion of the drug
208 court order and other requirements of probation or suspension of
209 sentence will result in the record of the criminal conviction or
210 adjudication being expunged. However, no expunction of any
211 implied consent violation shall be allowed.

212 **SECTION 13.** This act shall take effect and be in force from
213 and after July 1, 2003.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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