

By: Representative Ellis

To: Judiciary A

HOUSE BILL NO. 1573

1 AN ACT TO AMEND SECTIONS 9-23-9, 9-23-13, 9-23-15, 9-23-17
2 AND 9-23-19, MISSISSIPPI CODE OF 1972, TO MAKE CERTAIN TECHNICAL
3 REVISIONS TO THE DRUG COURT LAW; TO BRING FORWARD SECTION 9-23-11,
4 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 9-23-9, Mississippi Code of 1972, is
8 amended as follows:

9 9-23-9. (1) The State Drug Courts Advisory Committee is
10 established to develop and periodically update proposed statewide
11 evaluation plans and models for monitoring all critical aspects of
12 drug courts. The committee must provide the proposed evaluation
13 plans to the Chief Justice and the Mississippi Drug Courts Program
14 Office. The committee shall be chaired by the Director of the
15 Administrative Office of Courts and shall consist of * * * seven
16 (7) members * * * appointed by the director and broadly
17 representative of the courts, law enforcement, corrections,
18 juvenile justice, child protective services and substance abuse
19 treatment communities.

20 (2) The State Drug Courts Advisory Committee may also make
21 recommendations to the Chief Justice, the Director of the
22 Administrative Office of Courts and state officials concerning
23 improvements to drug court policies and procedures. The committee
24 may make suggestions as to the criteria for eligibility, and other
25 procedural and substantive guidelines for drug court operation.

26 (3) The State Drug Courts Advisory Committee shall act as
27 arbiter of disputes arising out of the operation of drug courts
28 established under this chapter and make recommendations to improve

29 the drug courts; it shall also make recommendations to the Supreme
30 Court necessary and incident to compliance with established rules.

31 **SECTION 2.** Section 9-23-11, Mississippi Code of 1972, is
32 brought forward as follows:

33 9-23-11. (1) A drug court may establish an alcohol and drug
34 intervention component provided all the following requirements are
35 met:

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

38 (b) The court that established the drug court
39 determines that in order to fully implement the purposes of the
40 drug court that the drug and alcohol intervention component is
41 necessary; and

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

44 (i) A full description of a proposed intervention
45 component.

46 (ii) A budget supported by statistics.

47 (iii) Details on the implementation of the
48 intervention component.

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

52 (3) A drug court may appoint such full- or part-time
53 employees it deems necessary for the work of the drug court and
54 shall fix the compensation of those employees. Such employees
55 shall serve at the will and pleasure of the judge or the judge's
56 designee.

57 (4) Drug court employees or contractors shall perform duties
58 the court assigns.

59 (5) A drug court established under this article is subject
60 to the regulatory powers of the Administrative Office of Courts as
61 set forth in Section 9-23-15.

62 (6) Each individual drug court is responsible for the
63 administration of the drug and alcohol intervention component of
64 that court.

65 (7) (a) The costs of participation in an alcohol and drug
66 services component required by the drug court established by this
67 chapter may be paid by the participant or out of user fees or such
68 other state, federal or private funds that may, from time to time,
69 be made available.

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

72 **SECTION 3.** Section 9-23-13, Mississippi Code of 1972, is
73 amended as follows:

74 9-23-13. (1) A drug court's alcohol and drug intervention
75 component may provide for eligible individuals a range of
76 necessary court intervention services, including, but not limited
77 to, the following:

78 (a) Screening for eligibility and other appropriate
79 services;

80 (b) Clinical assessment;

81 (c) Education;

82 (d) Referral;

83 (e) Service coordination and case management; and

84 (f) Counseling and rehabilitative care.

85 (2) Any inpatient treatment or inpatient detoxification
86 program ordered by the court shall be certified by the Department
87 of Mental Health * * * or the equivalent agency of another state.

88 **SECTION 4.** Section 9-23-15, Mississippi Code of 1972, is
89 amended as follows:

90 9-23-15. (1) In order to be eligible for alternative
91 sentencing through a local drug court, the participant must
92 satisfy each of the following criteria:

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

95 (b) The crime before the court cannot be a crime of
96 violence.

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

99 (d) The participant cannot have been currently charged
100 with or previously convicted of burglary of an occupied dwelling.

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

104 (f) The crime charged cannot be one of distribution,
105 sale, possession with intent to distribute, production,
106 manufacture or cultivation of controlled substances, nor can the
107 participant have a prior conviction for same.

108 (2) Participation in the services of an alcohol and drug
109 intervention component shall be open only to the individuals over
110 whom the court has jurisdiction, except that the court may agree
111 to provide the services for individuals referred from another drug
112 court. In cases transferred from another jurisdiction, the
113 receiving judge shall act as a special master and make
114 recommendations to the sentencing judge.

115 (3) (a) As a condition of participation in an alcohol and
116 drug court program, a participant may be required to undergo a
117 chemical test or a series of chemical tests as specified by the
118 drug court. A participant is liable for the costs of all chemical
119 tests required under this section, regardless of whether the costs
120 are paid to the drug court or the laboratory; provided, however,
121 if testing is available from other sources or the program itself,
122 the judge may waive any fees for testing.

123 (b) A laboratory that performs a chemical test under
124 this section shall report the results of the test to the drug
125 court.

126 (4) A person does not have a right to participate in drug
127 court under this chapter.

128 **SECTION 5.** Section 9-23-17, Mississippi Code of 1972, is
129 amended as follows:

130 9-23-17. With regard to any drug court established under
131 this chapter, the Administrative Office of Courts may do the
132 following:

133 (a) Ensure that the structure of the intervention
134 component complies with rules adopted under this section and
135 applicable federal regulations.

136 (b) Revoke the certification of a program upon a
137 determination that the program does not comply with rules adopted
138 under this section and applicable federal regulations.

139 (c) Make agreements and contracts to effectuate the
140 purposes of this chapter with:

141 (i) Another department, authority or agency of the
142 state;

143 (ii) Another state;

144 (iii) The federal government;

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

146 (v) A public or private agency, foundation,
147 corporation or individual.

148 (d) Directly, or by contract, approve and certify any
149 intervention component established under this chapter.

150 (e) Require, as a condition of operation, that each
151 drug court created or funded under this chapter be certified by
152 the Administrative Office of Courts.

153 (f) Adopt rules to implement this chapter.

154 **SECTION 6.** Section 9-23-19, Mississippi Code of 1972, is
155 amended as follows:

156 9-23-19. (1) All monies received from any source by the
157 drug court shall be accumulated in a fund to be used only for drug
158 court purposes. Any funds remaining in this fund at the end of a
159 fiscal year and any interest accruing to such fund shall not lapse

160 into any general fund, but shall be retained in the drug court
161 fund for the funding of further activities by the drug court.

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

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

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

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

167 **SECTION 7.** This act shall take effect and be in force from
168 and after July 1, 2004.