

By: Representative Kinkade

To: Drug Policy

HOUSE BILL NO. 1140

1 AN ACT TO AMEND SECTION 9-23-11, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT THE CERTIFICATION PROCESS OF THE ADMINISTRATIVE
 3 OFFICE OF COURTS FOR DRUG COURTS SHALL REQUIRE DATA FROM SUCH
 4 COURTS CONCERNING THE TOTAL NUMBER OF APPLICATIONS FOR SCREENING
 5 BASED UPON CERTAIN CRITERIA AND WHETHER OR NOT AN APPLICANT WAS
 6 ACCEPTED INTO A DRUG COURT PROGRAM; TO AMEND SECTION 9-23-15,
 7 MISSISSIPPI CODE OF 1972, TO REVISE THE ELIGIBILITY REQUIREMENTS
 8 FOR DRUG COURTS BY AUTHORIZING OFFENDERS WHO COMMITTED BURGLARY OF
 9 AN UNOCCUPIED DWELLING TO BECOME ELIGIBLE; TO PROVIDE A MECHANISM
 10 FOR OFFENDERS WHO HAVE BEEN RELEASED FROM CERTAIN SUPERVISION AND
 11 WHO HAVE BEEN DETERMINED TO BE IN NEED OF SPECIALIZED REENTRY
 12 SUPERVISION TO MEET WITH HIS SENIOR CIRCUIT JUDGE, OR HIS
 13 DESIGNEE, ALONG WITH OTHER OFFICIALS, TO DETERMINE IF THE PERSON
 14 SHOULD BE ADMITTED TO A DRUG COURT, VETERAN'S COURT, MENTAL HEATH
 15 COURT OR OTHER SIMILAR PROBLEM-SOLVING COURT; AND FOR RELATED
 16 PURPOSES.

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

18 **SECTION 1.** Section 9-23-11, Mississippi Code of 1972, is
 19 amended as follows:

20 9-23-11. (1) The Administrative Office of Courts shall
 21 establish, implement and operate a uniform certification process
 22 for all drug courts and other problem-solving courts including
 23 juvenile courts, veterans courts or any other court designed to
 24 adjudicate criminal actions involving an identified classification
 25 of criminal defendant to ensure funding for drug courts supports



26 effective and proven practices that reduce recidivism and
27 substance dependency among their participants.

28 (2) The Administrative Office of Courts shall establish a
29 certification process that ensures any new or existing drug court
30 meets minimum standards for drug court operation.

31 (a) These standards shall include, but are not limited
32 to:

33 (i) The use of evidence-based practices including,
34 but not limited to, the use of a valid and reliable risk and needs
35 assessment tool to identify participants and deliver appropriate
36 interventions;

37 (ii) Targeting medium to high risk offenders for
38 participation;

39 (iii) The use of current, evidence-based
40 interventions proven to reduce dependency on drugs or alcohol, or
41 both;

42 (iv) Frequent testing for alcohol or drugs;

43 (v) Coordinated strategy between all drug court
44 program personnel involving the use of graduated clinical
45 interventions;

46 (vi) Ongoing judicial interaction with each
47 participant; and

48 (vii) Monitoring and evaluation of drug court
49 program implementation and outcomes through data collection and
50 reporting.



51 (b) Drug court certification applications shall
52 include:

53 (i) A description of the need for the drug court;

54 (ii) The targeted population for the drug court;

55 (iii) The eligibility criteria for drug court
56 participants;

57 (iv) A description of the process for identifying
58 appropriate participants including the use of a risk and needs
59 assessment and a clinical assessment;

60 (v) A description of the drug court intervention
61 components including anticipated budget and implementation plan;

62 (vi) The data collection plan which shall include
63 collecting the following data:

64 1. Total number of participants;

65 2. Total number of successful participants;

66 3. Total number of unsuccessful participants
67 and the reason why each participant did not complete the program;

68 4. Total number of participants who were
69 arrested for a new criminal offense while in the drug court
70 program;

71 5. Total number of participants who were
72 convicted of a new felony or misdemeanor offense while in the drug
73 court program;



74 6. Total number of participants who committed
75 at least one (1) violation while in the drug court program and the
76 resulting sanction(s);

77 7. Results of the initial risk and needs
78 assessment or other clinical assessment conducted on each
79 participant; * * *

80 8. Total number of applications for screening
81 by race, gender, offense(s) charged, indigence and if not accepted
82 the reason for nonacceptance; and

83 * * *9. Any other data or information as
84 required by the Administrative Office of Courts.

85 (c) Every drug court shall be certified under the
86 following schedule:

87 (i) A drug court application submitted after July
88 1, 2014, shall require certification of the drug court based on
89 the proposed drug court plan;

90 (ii) A drug court established after July 1, 2014,
91 shall be recertified after its second year of funded operation;

92 (iii) A drug court in existence on July 1, 2014,
93 must submit a certification petition within one (1) year of July
94 1, 2014, and be certified pursuant to the requirements of this
95 section prior to expending drug court resources budgeted for
96 fiscal year 2016; and



97 (iv) All drug courts shall submit a
98 re-certification petition every two (2) years to the
99 Administrative Office of Courts after the initial certification.

100 (3) All certified drug courts shall measure successful
101 completion of the drug court based on those participants who
102 complete the program without a new criminal conviction.

103 (4) (a) All certified drug courts must collect and submit
104 to the Administrative Office of Courts each month, the following
105 data:

106 (i) Total number of participants at the beginning
107 of the month;

108 (ii) Total number of participants at the end of
109 the month;

110 (iii) Total number of participants who began the
111 program in the month;

112 (iv) Total number of participants who successfully
113 completed the drug court in the month;

114 (v) Total number of participants who left the
115 program in the month;

116 (vi) Total number of participants who were
117 arrested for a new criminal offense while in the drug court
118 program in the month;

119 (vii) Total number of participants who were
120 convicted for a new criminal arrest while in the drug court
121 program in the month; and



122 (viii) Total number of participants who committed
123 at least one (1) violation while in the drug court program and any
124 resulting sanction(s).

125 (b) By August 1, 2015, and each year thereafter, the
126 Administrative Office of Courts shall report to the PEER Committee
127 the information in subsection (4)(a) of this section in a
128 sortable, electronic format.

129 (5) All certified drug courts may individually establish
130 rules and may make special orders and rules as necessary that do
131 not conflict with the rules promulgated by the Supreme Court or
132 the Administrative Office of Courts.

133 (6) A certified drug court may appoint the full- or
134 part-time employees it deems necessary for the work of the drug
135 court and shall fix the compensation of those employees. Such
136 employees shall serve at the will and pleasure of the judge or the
137 judge's designee.

138 (7) The Administrative Office of Courts shall promulgate
139 rules and regulations to carry out the certification and
140 re-certification process and make any other policies not
141 inconsistent with this section to carry out this process.

142 (8) A certified drug court established under this chapter is
143 subject to the regulatory powers of the Administrative Office of
144 Courts as set forth in Section 9-23-17.

145 **SECTION 2.** Section 9-23-15, Mississippi Code of 1972, is
146 amended as follows:



147 9-23-15. (1) In order to be eligible for alternative
148 sentencing through a local drug court, the participant must
149 satisfy each of the following criteria:

150 (a) The participant cannot have any felony convictions
151 for any offenses that are crimes of violence as defined in Section
152 97-3-2, other than burglary under Section 97-17-23(1) of an
153 unoccupied dwelling, within the previous ten (10) years.

154 (b) The crime before the court cannot be a crime of
155 violence as defined in Section 97-3-2, other than burglary under
156 Section 97-17-23(1) of an unoccupied dwelling.

157 (c) Other criminal proceedings alleging commission of a
158 crime of violence, other than burglary under Section 97-17-23(1)
159 of an unoccupied dwelling, cannot be pending against the
160 participant.

161 (d) The participant cannot be currently charged with
162 burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

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

166 (f) The crime charged cannot be one of trafficking in
167 controlled substances under Section 41-29-139(f), nor can the
168 participant have a prior conviction for same.

169 (2) Participation in the services of an alcohol and drug
170 intervention component shall be open only to the individuals over
171 whom the court has jurisdiction, except that the court may agree



172 to provide the services for individuals referred from another drug
173 court. In cases transferred from another jurisdiction, the
174 receiving judge shall act as a special master and make
175 recommendations to the sentencing judge. The court may also
176 provide services for individuals determined to be in need of
177 reentry assistance pursuant to subsection (5) of this section.

178 (3) (a) As a condition of participation in a drug court, a
179 participant may be required to undergo a chemical test or a series
180 of chemical tests as specified by the drug court. A participant
181 is liable for the costs of all chemical tests required under this
182 section, regardless of whether the costs are paid to the drug
183 court or the laboratory; however, if testing is available from
184 other sources or the program itself, the judge may waive any fees
185 for testing. If the applicant is indigent any fees for testing
186 may be waived.

187 (b) A laboratory that performs a chemical test under
188 this section shall report the results of the test to the drug
189 court.

190 (4) A person does not have a right to participate in drug
191 court under this chapter. The court having jurisdiction over a
192 person for a matter before the court shall have the final
193 determination about whether the person may participate in drug
194 court under this chapter. However, any person meeting the
195 eligibility criteria in subsection (1) shall, upon request, be
196 screened for admission to drug court.



197 (5) Upon release from custody on earned release supervision,
198 parole or post-release supervision an offender determined to be in
199 need of specialized reentry supervision shall meet with the senior
200 circuit court judge of his or her county of residence or that
201 judge's designee along with the probation/parole agent assigned to
202 him or her, a representative from the District Attorney or Office
203 of the Attorney General's office and a public defender serving the
204 local problem-solving courts. The judge shall review the parole
205 case plan or other report of the Department of Corrections and
206 determine if the person should be admitted to a drug court,
207 veteran's court, mental health court or similar problem-solving
208 court. To be admitted the person must meet all qualifications for
209 participation set forth in this section. If the court determines
210 the person is eligible for admission and should be admitted the
211 person shall have the option to enter the program. If the person
212 enters the program he or she shall be subject to all rules and
213 regulations and have all rights and privileges of any other
214 participant.

215 **SECTION 3.** This act shall take effect and be in force from
216 and after July 1, 2018.

