

By: Senator(s) Doty

To: Judiciary, Division A

SENATE BILL NO. 2794

1 AN ACT TO PROVIDE THAT THE DRUG COURTS SHALL BE CONVERTED
2 INTO PROBLEM-SOLVING COURTS; TO AMEND SECTIONS 9-23-7 AND 9-23-9
3 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 9-23-11,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE A LEVEL OF DETAIL IN METADATA
5 REPORTING; TO AMEND SECTION 9-23-15, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE FOR WAIVER OF FEES OTHERWISE OWED BY INDIGENT APPLICANTS;
7 TO AMEND SECTIONS 9-23-17, 9-23-19, 9-23-23 AND 9-25-1,
8 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTIONS 9-27-1,
9 9-27-3, 9-27-7, 9-27-9, 9-27-11, 9-27-15, 9-27-17 AND 9-27-19,
10 MISSISSIPPI CODE OF 1972, TO CONFORM THE PROVISIONS OF THE RIVERS
11 MCGRAW MENTAL HEALTH DIVERSION PROGRAM; TO CREATE NEW SECTION
12 9-23-25, MISSISSIPPI CODE OF 1972, TO REQUIRE SPECIAL TRAINING FOR
13 ATTORNEYS PRACTICING IN PROBLEM-SOLVING COURTS; TO REPEAL SECTION
14 9-27-13, MISSISSIPPI CODE OF 1972, WHICH SETS FORTH THE AUTHORITY
15 OF THE ADMINISTRATIVE OFFICE OF COURTS WITH REGARD TO MENTAL
16 HEALTH DIVERSION PILOT PROGRAMS; TO REPEAL SECTION 9-27-21,
17 MISSISSIPPI CODE OF 1972, WHICH SETS FORTH THE CIRCUIT COURT
18 DISTRICTS ELIGIBLE TO ESTABLISH MENTAL HEALTH DIVERSION PILOT
19 PROGRAMS; AND FOR RELATED PURPOSES.

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

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

23 9-23-7. The Administrative Office of Courts shall be
24 responsible for certification and monitoring of local * * *
25 problem-solving courts according to standards promulgated by the
26 State Drug Courts Advisory Committee.



27 **SECTION 2.** Section 9-23-9, Mississippi Code of 1972, is
28 amended as follows:

29 9-23-9. (1) The State * * * Problem-Solving Courts Advisory
30 Committee is established to develop and periodically update
31 proposed statewide evaluation plans and models for monitoring all
32 critical aspects of drug courts, mental health courts, veterans'
33 courts and other problem-solving courts as may be created by
34 statute. The committee must provide the proposed evaluation plans
35 to the Chief Justice and the Administrative Office of Courts. The
36 committee shall be chaired by the Director of the Administrative
37 Office of Courts and shall consist of * * * eleven (11)
38 members * * *. One (1) member shall be appointed by each of the
39 following: the Chief Justice of the Supreme Court, the
40 Commissioner of Corrections, the Attorney General, the
41 Commissioner of the Department of Public Safety, the State Public
42 Defender, the Director of the Department of Human Services, the
43 Director of the Department Mental Health, the Director of the
44 Veterans' Affairs Board and the State Auditor. One (1) member
45 shall be a person in recovery or remission from addiction or
46 mental illness appointed by the Governor.

47 (2) The State * * * Problem-Solving Courts Advisory
48 Committee may also make recommendations to the Chief Justice, the
49 Director of the Administrative Office of Courts and state
50 officials concerning improvements to * * * problem-solving court
51 policies and procedures including the * * * problem-solving court



certification process. The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for * * * problem-solving court operation.

(3) The State * * * Problem-Solving Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of * * * problem-solving courts established under this chapter and make recommendations to improve the * * * problem-solving courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.

(4) The State * * * Problem-Solving Courts Advisory Committee shall establish through rules and regulations a viable and fiscally responsible plan to expand the number of adult and juvenile * * * problem-solving court programs operating in Mississippi. These rules and regulations shall include plans to increase participation in existing and future programs while maintaining their voluntary nature.

(5) The State * * * Problem-Solving Courts Advisory Committee shall receive and review the monthly reports submitted to the Administrative Office of Courts by each certified * * * problem-solving court and provide comments and make recommendations, as necessary, to the Chief Justice and the Director of the Administrative Office of Courts.

SECTION 3. Section 9-23-11, Mississippi Code of 1972, is amended as follows:



9-23-11. (1) The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all * * * problem-solving courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for * * * problem-solving courts supports effective and proven practices that reduce recidivism and substance dependency among their participants. (2) The Administrative Office of Courts shall establish a certification process that ensures any new or existing * * * problem-solving court meets minimum standards for * * * problem-solving court operation.

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

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

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

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

(iv) Frequent testing for alcohol or drugs;



101 (v) Coordinated strategy between all * * *

102 problem-solving court program personnel involving the use of

103 graduated clinical interventions;

104 (vi) Ongoing judicial interaction with each

105 participant; and

106 (vii) Monitoring and evaluation of * * *

107 problem-solving court program implementation and outcomes through

108 data collection and reporting.

109 (b) * * * Problem-solving court certification

110 applications shall include:

111 (i) A description of the need for the * * *

112 problem-solving court;

113 (ii) The targeted population for the * * *

114 problem-solving court;

115 (iii) The eligibility criteria for * * *

116 problem-solving court participants;

117 (iv) A description of the process for identifying

118 appropriate participants including the use of a risk and needs

119 assessment and a clinical assessment;

120 (v) A description of the * * * problem-solving

121 court intervention components, including anticipated budget and

122 implementation plan;

123 (vi) The data collection plan which shall include

124 collecting the following data:

125 1. Total number of participants;



- 126 2. Total number of successful participants;
- 127 3. Total number of unsuccessful participants
- 128 and the reason why each participant did not complete the program;
- 129 4. Total number of participants who were
- 130 arrested for a new criminal offense while in the * * *
- 131 problem-solving court program;
- 132 5. Total number of participants who were
- 133 convicted of a new felony or misdemeanor offense while in
- 134 the * * * problem-solving court program;
- 135 6. Total number of participants who committed
- 136 at least one (1) violation while in the * * * problem-solving
- 137 court program and the resulting sanction(s);
- 138 7. Results of the initial risk and needs
- 139 assessment or other clinical assessment conducted on each
- 140 participant; * * *
- 141 8. Total number of applications screening by
- 142 race, gender, offenses charged, indigence and those not accepted
- 143 with the reason for nonacceptance; and
- 144 9. Any other data or information as required
- 145 by the Administrative Office of Courts.

146 (c) Every * * * problem-solving court shall be

147 certified under the following schedule:

148 (i) A * * * problem-solving court application

149 submitted after July 1, 2014, shall require certification of



the * * * problem-solving court based on the proposed * * *
problem-solving court plan;

(ii) A * * * problem-solving court established
after July 1, 2014, shall be recertified after its second year of
funded operation;

(iii) A * * * problem-solving court in existence
on July 1, 2014, must submit a certification petition within one
(1) year of July 1, 2014, and be certified pursuant to the
requirements of this section prior to expending * * *
problem-solving court resources budgeted for fiscal year 2016; and

(iv) All * * * problem-solving courts shall submit
a re-certification petition every two (2) years to the
Administrative Office of Courts after the initial certification.

(3) All certified * * * problem-solving courts shall measure
successful completion of the * * * problem-solving court based on
those participants who complete the program without a new criminal
conviction.

(4) (a) All certified * * * problem-solving courts must
collect and submit to the Administrative Office of Courts each
month, the following data:

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

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



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

(iv) Total number of participants who successfully completed the * * * problem-solving court in the month;

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

(vi) Total number of participants who were arrested for a new criminal offense while in the * * * problem-solving court program in the month;

(vii) Total number of participants who were convicted for a new criminal arrest while in the * * * problem-solving court program in the month; and

(viii) Total number of participants who committed at least one (1) violation while in the * * * problem-solving court program and any resulting sanction(s).

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

(5) All certified * * * problem-solving courts may individually establish rules and may make special orders and rules as necessary that do not conflict with the rules promulgated by the Supreme Court or the Administrative Office of Courts.

(6) A certified * * * problem-solving court may appoint the full- or part-time employees it deems necessary for the work of



the * * * problem-solving court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.

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

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

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

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

(a) The participant cannot have any felony convictions for any offenses that are crimes of violence as defined in Section 97-3-2 within the previous ten (10) years.

(b) The crime before the court cannot be a crime of violence as defined in Section 97-3-2.

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

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



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

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

229 (2) Participation in the services of an alcohol and drug
230 intervention component shall be open only to the individuals over
231 whom the court has jurisdiction, except that the court may agree
232 to provide the services for individuals referred from
233 another * * * problem-solving court. In cases transferred from
234 another jurisdiction, the receiving judge shall act as a special
235 master and make recommendations to the sentencing judge.

236 (3) (a) As a condition of participation in a * * *
237 problem-solving court, a participant may be required to undergo a
238 chemical test or a series of chemical tests as specified by
239 the * * * problem-solving court. A participant is liable for the
240 costs of all chemical tests required under this section,
241 regardless of whether the costs are paid to the * * *
242 problem-solving court or the laboratory; however, if testing is
243 available from other sources or the program itself, the judge may
244 waive any fees for testing. If the applicant is indigent, the
245 fees for testing shall be waived.



(b) A laboratory that performs a chemical test under this section shall report the results of the test to the * * * problem-solving court.

(4) A person does not have a right to participate in * * * problem-solving court under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in * * * problem-solving court under this chapter. However, any person who meets the eligibility criteria of subsection (1) of this section, upon request, must be screened for admission to problem-solving court.

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

9-23-17. With regard to any * * * problem-solving court established under this chapter, the Administrative Office of Courts shall do the following:

(a) Certify and re-certify * * * problem-solving court applications that meet standards established by the Administrative Office of Courts in accordance with this chapter.

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

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



(d) Make agreements and contracts to effectuate the purposes of this chapter with:

- (i) Another department, authority or agency of the state;
- (ii) Another state;
- (iii) The federal government;
- (iv) A state-supported or private university; or
- (v) A public or private agency, foundation, corporation or individual.

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

(f) Require, as a condition of operation, that each * * * problem-solving court created or funded under this chapter be certified by the Administrative Office of Courts.

(g) Collect monthly data reports submitted by all certified * * * problem-solving courts, provide those reports to the State * * * Problem-Solving Courts Advisory Committee, compile an annual report summarizing the data collected and the outcomes achieved by all certified * * * problem-solving courts and submit the annual report to the Oversight Task Force.

(h) Every three (3) years contract with an external evaluator to conduct an evaluation of the effectiveness of the * * * problem-solving court program, both statewide and individual * * * problem-solving court programs, in complying with



the key components of the * * * problem-solving courts adopted by the National Association of Drug Court Professionals.

(i) Adopt rules to implement this chapter.

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

9-23-19. (1) All monies received from any source by the * * * problem-solving court shall be accumulated in a fund to be used only for * * * problem-solving court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the * * * problem-solving court fund for the funding of further activities by the * * * problem-solving court.

(2) A * * * problem-solving court may apply for and receive the following:

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

(b) Grant and contract money from governmental sources.

(c) Other forms of financial assistance approved by the court to supplement the budget of the * * * problem-solving court.

(3) The costs of participation in an alcohol and drug intervention program required by the certified * * * problem-solving court may be paid by the participant or out of user fees or such other state, federal or private funds that may, from time to time, be made available.

(4) The court may assess such reasonable and appropriate fees to be paid to the local * * * problem-solving court fund for



320 participation in an alcohol or drug intervention program. If the
321 applicant is indigent, the fees shall be waived.

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

324 9-23-23. If the participant completes all requirements
325 imposed upon him by the * * * problem-solving court, * * * the
326 charge and prosecution shall be dismissed. If the defendant or
327 participant was sentenced at the time of entry of plea of guilty,
328 the successful completion of the * * * problem-solving court order
329 and other requirements of probation or suspension of sentence will
330 result in the record of the criminal conviction or adjudication
331 being expunged. However, no expunction of any implied consent
332 violation shall be allowed.

333 **SECTION 8.** Section 9-25-1, Mississippi Code of 1972, is
334 amended as follows:

335 9-25-1. (1) The Legislature recognizes that our military
336 veterans have provided an invaluable service to our country. In
337 doing so, many may have suffered the effects of, including, but
338 not limited to, post-traumatic stress disorder, traumatic brain
339 injury and depression, and may also suffer drug and alcohol
340 dependency or addiction and co-occurring mental illness and
341 substance abuse problems. As a result of this, some veterans come
342 into contact with the criminal justice system and are charged with
343 felony offenses. There is a critical need for the justice system
344 to recognize these veterans, provide accountability for their



wrongdoing, provide for the safety of the public, and provide for the treatment of our veterans. It is the intent of the Legislature to create a framework for which specialized veterans treatment courts may be established at the circuit court level and at the discretion of the circuit court judge.

(2) **Authorization.** A circuit court judge may establish a Veterans Treatment Court program. The Veterans Treatment Court may, at the discretion of the circuit court judge, be a separate court program or as a component of an existing * * * problem-solving court program. At the discretion of the circuit court judge, the Veterans Treatment Court may be operated in one (1) county within the circuit court district, and allow veteran participants from all counties within the circuit court district to participate.

(3) **Eligibility.** (a) In order to be eligible to participate in a Veterans Treatment Court program established under this section, the attorney representing the state must consent to the defendant's participation in the program. Further, the court in which the criminal case is pending must have found that the defendant is a veteran of the United States Armed Forces as defined in Title 38 USCS.

(b) Participation in the services of an alcohol and drug intervention component shall only be open to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from



another Veterans Treatment Court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(c) (i) As a condition of participation in a Veterans Treatment Court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the Veterans Treatment Court program. A participant may be held liable for costs associated with all chemical tests required under this section. However, a judge may waive any fees for testing.

(ii) A laboratory that performs chemical tests under this section shall report the results of the tests to the Veterans Treatment Courts.

(d) A person does not have the right to participate in a Veterans Treatment Court program under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in the Veterans Treatment Court program.

(e) A defendant shall be excluded from participating in a Veterans Treatment Court program if any one (1) of the following applies:

(i) The crime before the court is a crime of violence as set forth in paragraph (c) of this subsection.

(ii) The defendant does not demonstrate a willingness to participate in a treatment program.



(iii) The defendant has been previously convicted of a felony crime of violence including, but not limited to: murder, rape, sexual battery, statutory rape of a child under the age of sixteen (16), armed robbery, arson, aggravated kidnapping, aggravated assault, stalking, or any offense involving the discharge of a firearm or where serious bodily injury or death resulted to any person.

(f) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the Veterans Treatment Court program or otherwise through the justice system.

(g) Proof of matters under this section may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office.

(4) **Administrative Office of Courts.** With regard to any Veterans Treatment Court established under this chapter, the Administrative Office of Courts may do the following:

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



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

(c) Enter into agreements and contracts to effectuate the purposes of this chapter with:

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

(ii) Another state;

(iii) The federal government;

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

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

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

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

(f) Adopt rules to implement this chapter.

(5) **State * * * Problem-Solving Court Advisory Committee.**

(a) The State * * * Problem-Solving Court Advisory Committee shall be responsible for developing statewide rules and policies as they relate to Veterans Treatment Court programs.

(b) The State * * * Problem-Solving Court Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state



officials concerning improvements to Veterans Treatment Court policies and procedures.

(c) The State * * * Problem-Solving Court Advisory Committee shall act as an arbiter of disputes arising out of the operation of Veterans Treatment Court programs established under this chapter and make recommendations to improve the Veterans Treatment Court programs.

(6) **Funding for Veterans Treatment Courts.** (a) All monies received from any source by the Veterans Treatment Court program shall be accumulated in a fund to be used only for Veterans Treatment Court purposes. Any funds remaining in this fund at the end of the fiscal year shall not lapse into the General Fund, but shall be retained in the Veterans Treatment Court fund for the funding of further activities by the Veterans Treatment Court program.

(b) A Veterans Treatment Court program may apply for and receive the following:

(i) Gifts, bequests and donations from private sources.

(ii) Grant and contract money from governmental sources.

(iii) Other forms of financial assistance approved by the court to supplement the budget of the Veterans Treatment Court program.



(7) **Immunity.** The coordinator and members of the professional and administrative staff of the Veterans Treatment Court program who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the Veterans Treatment Court program.

(8) This section shall be codified as a separate article in Title 9, Mississippi Code of 1972.

SECTION 9. Section 9-27-1, Mississippi Code of 1972, is amended as follows:

9-27-1. This chapter shall be known and may be cited as the Rivers McGraw Mental Health Diversion * * * Program Act.

SECTION 10. Section 9-27-3, Mississippi Code of 1972, is amended as follows:

9-27-3. (1) The Legislature recognizes the critical need for judicial intervention to establish court processes and procedures that are more responsive to the needs of defendants with mental illnesses, while maintaining public safety and the integrity of the court process. * * *

(2) The goals of the mental health diversion * * * programs under this chapter include the following:



(a) Reduce the number of future criminal justice contacts among offenders with mental illnesses;

(b) Reduce the inappropriate institutionalization of people with mental illnesses;

(c) Improve the mental health and well-being of defendants who come in contact with the criminal justice system;

(d) Improve linkages between the criminal justice system and the mental health system;

(e) Expedite case processing;

(f) Protect public safety;

(g) Establish linkages with other state and local agencies and programs that target people with mental illnesses in order to maximize the delivery of services; and

(h) To use corrections resources more effectively by redirecting prison-bound offenders whose criminal conduct is driven in part by mental illnesses to intensive supervision and clinical treatment available in the mental health diversion * * * program.

SECTION 11. Section 9-27-7, Mississippi Code of 1972, is amended as follows:

9-27-7. (1) The Administrative Office of Courts is the repository for reports filed by * * * programs established under this chapter. The goal of the * * * programs is to support effective and proven practices that reduce recidivism and provide treatment for participants.



(2) * * * Programs must adhere to the standards established in this chapter.

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

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

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

(iii) The use of current, evidence-based interventions proven to provide mental health treatment;

(iv) Coordinated strategy between all mental health diversion * * * program personnel;

(v) Ongoing judicial interaction with each participant; and

(vi) Monitoring and evaluation of mental health diversion * * * program implementation and outcomes through data collection and reporting.

(b) * * * Programs must implement a data collection plan, which shall include collecting the following data:

(i) Total number of participants;

(ii) Total number of successful participants;

(iii) Total number of unsuccessful participants

and the reason why each participant did not complete the program;



542 (iv) Total number of participants who were
543 arrested for a new criminal offense while in the program;
544 (v) Total number of participants who were
545 convicted of a new felony or misdemeanor offense while in the
546 program;
547 (vi) Total number of participants who committed at
548 least one (1) violation while in the program and the resulting
549 sanction(s);
550 (vii) Results of the initial risk and needs
551 assessment or other clinical assessment conducted on each
552 participant; and
553 (viii) Any other data or information as required
554 by the Administrative Office of Courts.
555 (3) All mental health diversion * * * programs must measure
556 successful completion of the program based on those participants
557 who complete the program without a new criminal conviction.
558 (4) (a) * * * Programs must collect and submit to the
559 Administrative Office of Courts each month, the following data:
560 (i) Total number of participants at the beginning
561 of the month;
562 (ii) Total number of participants at the end of
563 the month;
564 (iii) Total number of participants who began the
565 program in the month;



566 (iv) Total number of participants who successfully
567 completed the program in the month;

568 (v) Total number of participants who left the
569 program in the month;

570 (vi) Total number of participants who were
571 arrested for a new criminal offense while in the program in the
572 month;

573 (vii) Total number of participants who were
574 convicted for a new criminal arrest while in the program in the
575 month; and

576 (viii) Total number of participants who committed
577 at least one (1) violation while in the program and any resulting
578 sanction(s).

579 (b) By August 1, 2018, and each year thereafter, the
580 Administrative Office of Courts shall report to the PEER Committee
581 the information in subsection (4)(a) of this section in a
582 sortable, electronic format.

583 (5) Mental health diversion * * * programs may individually
584 establish rules and may make special orders and rules as necessary
585 that do not conflict with rules promulgated by the Supreme Court
586 or the Administrative Office of Courts.

587 (6) A mental health diversion * * * program may appoint the
588 full or part-time employees it deems necessary for the work of the
589 mental health diversion * * * program and shall fix the



compensation of those employees, who shall serve at the will and pleasure of the senior circuit court judge.

(7) A mental health diversion * * * program established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-27-13.

SECTION 12. Section 9-27-9, Mississippi Code of 1972, is amended as follows:

9-27-9. (1) A mental health diversion * * * program's mental health intervention component shall provide for eligible individuals, either directly or through referrals, a range of necessary court treatment services, including, but not limited to, the following:

(a) Screening using a valid and reliable assessment tool effective for identifying persons affected by mental health issues for eligibility and appropriate services;

(b) Clinical assessment;

(c) Education;

(d) Referral;

(e) Service coordination and case management; and

(f) Counseling and rehabilitative care.

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

SECTION 13. Section 9-27-11, Mississippi Code of 1972, is amended as follows:



9-27-11. (1) In order to be eligible for alternative sentencing through a local mental health diversion * * * program, the participant must satisfy each of the following criteria:

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

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

(c) Other criminal proceedings alleging commission of a crime of violence other than burglary under Section 97-17-23(1) cannot be pending against the participant.

(d) The crime before the court cannot be a charge of driving under the influence of alcohol or any other substance that resulted in the death of a person. In addition, persons who are ineligible for nonadjudication under Section 63-11-30 shall be ineligible to participate in a mental health diversion program.

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

(2) Participation in the services of a mental health treatment component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another



640 mental health diversion program. In cases transferred from
641 another jurisdiction, the receiving judge shall act as a special
642 master and make recommendations to the sentencing judge.

643 (3) (a) As a condition of participation in a mental health
644 diversion program, a participant may be required to undergo a
645 chemical test or a series of chemical tests as specified by the
646 program. A participant is liable for the costs of all chemical
647 tests required under this section, regardless of whether the costs
648 are paid to the mental health diversion program or the laboratory;
649 however, if testing is available from other sources or the program
650 itself, the judge may waive any fees for testing. If the
651 applicant is indigent, fees for testing shall be waived.

652 (b) A laboratory that performs a chemical test under
653 this section shall report the results of the test to the mental
654 health diversion program.

655 (4) A person does not have a right to participate in a
656 mental health diversion program under this chapter. The court
657 having jurisdiction over a person for a matter before the court
658 shall have the final determination about whether the person may
659 participate in the mental health diversion program under this
660 chapter. However, any person meeting the eligibility criteria of
661 subsection (1) of this section, upon request, must be screened for
662 admission to the program.

663 **SECTION 14.** Section 9-27-15, Mississippi Code of 1972, is
664 amended as follows:



665 9-27-15. (1) All monies received from any source by a
666 mental health diversion * * * program shall be accumulated in a
667 local fund to be used only for mental health diversion * * *
668 program purposes. Any funds remaining in a local fund at the end
669 of a fiscal year shall not lapse into any general fund, but shall
670 be retained in the mental health diversion * * * program fund for
671 the funding of further activities by the mental health
672 diversion * * * program. Any funds remaining in a local fund at
673 the time of repeal of this chapter shall lapse into the
674 appropriate county's general fund.

675 (2) A mental health diversion * * * program may apply for
676 and receive the following:

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

678 (b) Grant and contract monies from governmental
679 sources.

680 (c) Other forms of financial assistance approved by the
681 court to supplement the budget of the mental health
682 diversion * * * program.

683 (3) The costs of participation in a mental health treatment
684 program required by the mental health diversion * * * program may
685 be paid by the participant or out of user fees or such other
686 state, federal or private funds that may, from time to time, be
687 made available.

688 (4) The court may assess reasonable and appropriate fees to
689 be paid to the local mental health diversion * * * program fund



690 for participation in a mental health treatment program. If the
691 applicant is indigent, fees shall be waived.

692 **SECTION 15.** Section 9-27-17, Mississippi Code of 1972, is
693 amended as follows:

694 9-27-17. The director and members of the professional and
695 administrative staff of the mental health diversion * * * program
696 who perform duties in good faith under this chapter are immune
697 from civil liability for:

698 (a) Acts or omissions in providing services under this
699 chapter; and

700 (b) The reasonable exercise of discretion in
701 determining eligibility to participate in the mental health
702 diversion * * * program.

703 **SECTION 16.** Section 9-27-19, Mississippi Code of 1972, is
704 amended as follows:

705 9-27-19. If the participant completes all requirements
706 imposed upon him by the mental health diversion * * *
707 program, * * * the charge and prosecution shall be dismissed. If
708 the defendant or participant was sentenced at the time of entry of
709 a plea of guilty, the successful completion of the mental health
710 diversion * * * program order and other requirements of probation
711 or suspension of sentence will result in the record of the
712 criminal conviction or adjudication being expunged.

713 **SECTION 17.** The following shall be codified as Section
714 9-23-25, Mississippi Code of 1972:



715 9-23-25. An attorney appointed to represent a person in a
716 problem-solving court must complete annual training that is
717 approved by the State Problem-Solving Courts Advisory Committee,
718 the Office of State Public Defender, and the Mississippi
719 Commission on Continuing Legal Education. The Committee and State
720 Defender shall determine the amount of training and continuing
721 education required to fulfill the requirements of this subsection,
722 maintain a roll of attorneys who have complied with the training
723 requirements, and otherwise enforce the provisions of this
724 section.

725 **SECTION 18.** Section 9-27-13, Mississippi Code of 1972, which
726 sets forth the authority of the Administrative Office of Courts
727 with regard to mental health diversion pilot programs, is
728 repealed.

729 **SECTION 19.** Section 9-27-21, Mississippi Code of 1972, which
730 sets forth the circuit court districts eligible to establish
731 mental health diversion pilot programs, is repealed.

732 **SECTION 20.** This act shall take effect and be in force from
733 and after July 1, 2019.

