

By: Senator(s) Hyde-Smith, King, Walden,
Chaney, Williamson, Dearing, Posey, Frazier,
Turner, Walls

To: Judiciary;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2605

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 PROGRAMS; TO PROVIDE FOR THE ADMINISTRATION OF SUCH PROGRAMS; TO
5 PROVIDE THAT SUCCESSFUL COMPLETION OF A DRUG DIVERSION PROBATION
6 PROGRAM MAY RESULT IN EXPUNCTION OF CRIMINAL RECORD; AND FOR
7 RELATED 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 intervention to reduce the
11 incidence of alcohol and drug use, alcohol and drug addiction, and
12 crimes committed as a result of alcohol and drug use and alcohol
13 and drug addiction. It is the intent of the Legislature to
14 facilitate local drug court alternative orders adaptable to
15 chancery, circuit and youth courts.

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

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

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

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

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



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

31 **SECTION 2.** For the purposes of this act, the following words
32 and phrases shall have the meanings ascribed unless the context
33 clearly requires otherwise:

34 (a) "Drug court," for the purpose of this act, means an
35 immediate and highly structured intervention process for substance
36 abuse treatment of eligible defendants or juveniles that:

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

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

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

46 **SECTION 3.** The Administrative Office of Courts shall be
47 responsible for certification of local drug courts according to
48 standards promulgated by the State Drug Courts Advisory Committee.

49 **SECTION 4.** (1) The State Drug Courts Advisory Committee is
50 established to develop and periodically update proposed statewide
51 evaluation plans and models for monitoring all critical aspects of
52 drug courts. The committee must provide these proposed evaluation
53 plans to the Chief Justice and the Mississippi Drug Courts Program
54 Office. The committee shall be chaired by the Director of the
55 Administrative Office of Courts and shall consist of not less than
56 seven (7) members appointed by the director and broadly
57 representative of the courts, law enforcement, corrections,
58 juvenile justice, child protective services and substance abuse
59 treatment communities.



60 (2) The State Drug Courts Advisory Committee may also make
61 recommendations to the Chief Justice, the Director of the
62 Administrative Office of Courts and state officials concerning
63 improvements to drug court policies and procedures. The committee
64 may make suggestions as to the criteria for eligibility, and other
65 procedural and substantive guidelines for drug court operation.

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

71 **SECTION 5.** (1) A drug court may establish an alcohol and
72 drug intervention component provided all the following
73 requirements are met:

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

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

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

82 (i) A full description of a proposed intervention
83 program.

84 (ii) A budget for the program, supported by
85 statistics showing the total fines and costs collected by the
86 court in the most recent year.

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

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 (4) A drug court may appoint such full- or part-time
93 employees it deems necessary to implement the program and shall
94 fix the compensation of those employees.

95 (5) Program employees or contractors shall perform duties
96 the court assigns.

97 (6) A drug court established under this act is subject to
98 the regulatory powers of the Administrative Office of Courts as
99 set forth in Section 8 of this act.

100 (7) Each individual drug court is responsible for the
101 administration of the drug and alcohol intervention component of
102 that court.

103 (8) (a) The costs of an alcohol and drug services program
104 established under this act shall be paid out of user fees and such
105 other state, federal or private funds that may, from time to time,
106 be made available.

107 (b) The court may assess such reasonable fees for
108 participation in the program or sanctions that it deems
109 appropriate.

110 **SECTION 6.** (1) (a) A drug court's alcohol and drug
111 intervention component may provide for eligible individuals a
112 range of necessary intervention services, including the following:

113 (i) Screening for eligibility and other
114 appropriate services;

115 (ii) Clinical assessment;

116 (iii) Education;

117 (iv) Referral;

118 (v) Service coordination and case management.

119 (b) A program may also provide counseling and
120 rehabilitative care.

121 (2) Before an alcohol and drug intervention component may be
122 established, the court must have a written statement from the
123 Administrative Office of Courts approving the establishment of the
124 intervention component and the plans for operation.



125 **SECTION 7.** (1) In order to be eligible for alternative
126 sentencing through a local drug court, the participant must
127 satisfy each of the following criteria:

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

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

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

134 (d) The participant cannot have been currently charged
135 with or previously convicted of burglary of a dwelling.

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

139 (f) The crime charged cannot be one of distribution,
140 sale, possession with intent to distribute, production,
141 manufacture or cultivation of controlled substances.

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

149 (3) (a) As a condition of participation in an alcohol and
150 drug services program, a participant may be required to undergo a
151 chemical test or a series of chemical tests as specified by the
152 drug court. A participant is liable for the costs of all chemical
153 tests required under this section, regardless of whether the costs
154 are paid to the court alcohol and drug intervention program or the
155 laboratory.

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



158 (4) A person does not have a right to participate in an
159 alcohol and drug services program under this act.

160 **SECTION 8.** With regard to alcohol and drug intervention
161 programs established under this act, the Administrative Office of
162 Courts 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 the
171 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.

180 (f) Adopt rules to implement this act.

181 **SECTION 9.** (1) All monies received from any source by the
182 drug court shall be accumulated in a fund to be used only for drug
183 court purposes. Any funds remaining in this fund at the end of a
184 fiscal year shall not lapse into any general fund, but shall be
185 retained in the drug court fund for the funding of further
186 activities by the drug court.

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

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

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



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

192 **SECTION 10.** The director and members of the professional and
193 administrative staff of an alcohol and drug services program who
194 perform duties in good faith under this act are immune from civil
195 liability for:

196 (a) Acts or omissions in providing services under this
197 act; and

198 (b) The reasonable exercise of discretion in
199 determining eligibility to participate in an alcohol and drug
200 services program.

201 **SECTION 11.** If the participant completes all requirements
202 imposed upon him by the drug court, including the payment of fines
203 and fees assessed, the charge and prosecution shall be dismissed.
204 If the defendant or participant was sentenced at the time of entry
205 of plea of guilty, the successful completion of the drug court
206 program and other requirements of probation or suspension of
207 sentence will result in the record of criminal conviction being
208 expunged. However, no expunction of any implied consent violation
209 shall be allowed.

210 **SECTION 12.** This act shall take effect and be in force from
211 and after July 1, 2003.

