

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2605: Drug courts; establish statewide standards (S.Ct.).

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

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 the 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 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 that 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 it deems necessary for the work of the drug court and
94 shall fix the compensation of those employees. Such employees
95 shall serve at the will and pleasure of the judge or the judge's
96 designee.

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

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

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

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

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

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

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

118 (b) Clinical assessment;

119 (c) Education;

120 (d) Referral;

121 (e) Service coordination and case management; and

122 (f) Counseling and rehabilitative care.

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

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

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

132 (b) The crime before the court cannot be a crime of
133 violence.

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

136 (d) The participant cannot have been currently charged
137 with burglary of an occupied dwelling.

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

141 (f) The crime charged cannot be one of distribution,
142 sale, possession with intent to distribute, production,
143 manufacture or cultivation of controlled substances. Nor can the
144 participant have a prior conviction for same.

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

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

160 (b) A laboratory that performs a chemical test under
161 this section shall report the results of the test to the drug
162 court.

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

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

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

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

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

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

178 (ii) Another state;

179 (iii) The federal government;

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

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

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

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

188 (f) Adopt rules to implement this act.

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

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

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

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

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

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

203 (a) Acts or omissions in providing services under this
204 act; and

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

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

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

216 **SECTION 13.** This act shall take effect and be in force from
217 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.

CONFEREES FOR THE SENATE

X _____
Bennie L. Turner

X _____
Gloria Williamson

X _____
Ron Farris

CONFEREES FOR THE HOUSE

X _____
Percy W. Watson

X _____
Earle S. Banks

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Jim C. Barnett