

1 AN ACT

2 relating to the operation and funding of drug court programs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 469.001, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 469.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR
7 CERTAIN DEFENDANTS. (a) In this chapter, "drug court program"
8 means a program that has the following essential characteristics:

9 (1) the integration of alcohol and other drug
10 treatment services in the processing of cases in the judicial
11 system;

12 (2) the use of a nonadversarial approach involving
13 prosecutors and defense attorneys to promote public safety and to
14 protect the due process rights of program participants;

15 (3) early identification and prompt placement of
16 eligible participants in the program;

17 (4) access to a continuum of alcohol, drug, and other
18 related treatment and rehabilitative services;

19 (5) monitoring of abstinence through weekly alcohol
20 and other drug testing;

21 (6) a coordinated strategy to govern program responses
22 to participants' compliance;

23 (7) ongoing judicial interaction with program
24 participants;

1 (8) monitoring and evaluation of program goals and
2 effectiveness;

3 (9) continuing interdisciplinary education to promote
4 effective program planning, implementation, and operations; and

5 (10) development of partnerships with public agencies
6 and community organizations.

7 (b) If a defendant successfully completes a drug court
8 program, regardless of whether the defendant was convicted of the
9 offense for which the defendant entered the program or whether the
10 court deferred further proceedings without entering an
11 adjudication of guilt, after notice to the state and a hearing on
12 whether the defendant is otherwise entitled to the petition and
13 whether issuance of the order is in the best interest of justice,
14 the court shall enter an order of nondisclosure under Section
15 411.081, Government Code, as if the defendant had received a
16 discharge and dismissal under Section 5(c), Article 42.12, Code of
17 Criminal Procedure, with respect to all records and files related
18 to the defendant's arrest for the offense for which the defendant
19 entered the program if the defendant:

20 (1) has not been previously convicted of a felony
21 offense; and

22 (2) is not convicted for any other felony offense
23 before the second anniversary of the defendant's successful
24 completion of the program.

25 (c) Notwithstanding Subsection (b), a defendant is not
26 entitled to petition the court for an order of nondisclosure
27 following successful completion of a drug court program if the

1 defendant's entry into the program arose as the result of a
2 conviction for an offense involving the operation of a motor
3 vehicle while intoxicated.

4 SECTION 2. Section 469.002, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
7 ~~as provided by Section 469.006, the~~] commissioners court of a
8 county or governing body of a municipality may establish the
9 following types of [a] drug court programs:

10 (1) drug courts for [~~program for~~] persons arrested
11 for, charged with, or convicted of:

12 (A) [~~(1)~~] an offense in which an element of the
13 offense is the use or possession of alcohol or the use, possession,
14 or sale of a controlled substance, a controlled substance analogue,
15 or marihuana; or

16 (B) [~~(2)~~] an offense in which the use of alcohol
17 or a controlled substance is suspected to have significantly
18 contributed to the commission of the offense and the offense did not
19 involve:

20 (i) [~~(A)~~] carrying, possessing, or using a
21 firearm or other dangerous weapon;

22 (ii) [~~(B)~~] the use of force against the
23 person of another; or

24 (iii) [~~(C)~~] the death of or serious bodily
25 injury to another;

26 (2) drug courts for juveniles detained for, taken into
27 custody for, or adjudicated as having engaged in:

1 (A) delinquent conduct, including habitual
2 felony conduct, or conduct indicating a need for supervision in
3 which an element of the conduct is the use or possession of alcohol
4 or the use, possession, or sale of a controlled substance, a
5 controlled substance analogue, or marihuana; or

6 (B) delinquent conduct, including habitual
7 felony conduct, or conduct indicating a need for supervision in
8 which the use of alcohol or a controlled substance is suspected to
9 have significantly contributed to the commission of the conduct and
10 the conduct did not involve:

11 (i) carrying, possessing, or using a
12 firearm or other dangerous weapon;

13 (ii) the use of force against the person of
14 another; or

15 (iii) the death of or serious bodily injury
16 to another;

17 (3) reentry drug courts for persons with a
18 demonstrated history of using alcohol or a controlled substance who
19 may benefit from a program designed to facilitate the person's
20 transition and reintegration into the community on release from a
21 state or local correctional facility;

22 (4) family dependency drug treatment courts for family
23 members involved in a suit affecting the parent-child relationship
24 in which a parent's use of alcohol or a controlled substance is a
25 primary consideration in the outcome of the suit; or

26 (5) programs for other persons not precisely described
27 by Subdivisions (1)-(4) who may benefit from a program that has the

1 essential characteristics described by Section 469.001.

2 SECTION 3. Section 469.003, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 469.003. OVERSIGHT. (a) The lieutenant governor and
5 the speaker of the house of representatives may assign to
6 appropriate legislative committees duties relating to the
7 oversight of drug court programs established under this chapter
8 [~~Section 469.002~~].

9 (b) A legislative committee or the governor may request the
10 state auditor to perform a management, operations, or financial or
11 accounting audit of a drug court program established under this
12 chapter [~~Section 469.002~~].

13 (c) A drug court program established under this chapter
14 shall:

15 (1) notify the criminal justice division of the
16 governor's office before or on implementation of the program; and

17 (2) provide information regarding the performance of
18 the program to the division on request.

19 SECTION 4. Section 469.004, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 469.004. FEES. (a) A drug court program established
22 under this chapter [~~Section 469.002~~] may collect from a participant
23 in the program:

24 (1) a reasonable program fee not to exceed \$1,000[~~7~~
25 ~~which may be paid on a periodic basis or on a deferred payment~~
26 ~~schedule at the discretion of the judge, magistrate, or program~~
27 ~~director administering the program)]; and~~

1 (2) an alcohol or controlled substance [~~a urinalysis~~]
2 testing, [~~and~~] counseling, and treatment fee[+]

3 [~~(A) based on the participant's ability to pay,~~
4 ~~and~~

5 [~~(B)~~] in an amount necessary to cover the costs
6 of the testing, [~~and~~] counseling, and treatment.

7 (b) Fees collected under this section may be paid on a
8 periodic basis or on a deferred payment schedule at the discretion
9 of the judge, magistrate, or program director administering the
10 program. The fees must be:

11 (1) [~~A drug court program may require a participant to~~
12 ~~pay all treatment costs incurred while participating in the~~
13 ~~program,~~] based on the participant's ability to pay; and

14 (2) used only for purposes specific to the program.

15 SECTION 5. Section 469.006, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
18 The commissioners court of a county with a population of more than
19 200,000 [~~550,000~~] shall establish a drug court program under
20 Subdivision (1) of Section 469.002.

21 (b) [~~A drug court program required under this section to be~~
22 ~~established must have at least 100 participants during the first~~
23 ~~four months in which the program is operating.~~

24 [~~(c)~~] A county required under this section to establish a
25 drug court program shall apply for [~~to the~~] federal and state
26 [~~government for any~~] funds available to pay the costs of the
27 program. The criminal justice division of the governor's office

1 may assist a county in applying for federal funds as required by
2 this subsection~~[, including providing financial assistance to the~~
3 ~~county]~~.

4 (c) Notwithstanding Subsection (a), a county is required to
5 establish a drug court program under this section only if the county
6 receives federal or state funding, including funding under Article
7 102.0178, Code of Criminal Procedure, specifically for that
8 purpose.

9 (d) A county that does not establish a drug court program as
10 required by this section and maintain the program is ineligible to
11 receive from the state:

12 (1) funds for a community supervision and corrections
13 department; and

14 (2) grants for substance abuse treatment programs
15 administered by the criminal justice division of the governor's
16 office.

17 SECTION 6. Section 469.007, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 469.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS
20 PROGRAMS. In addition to using a drug court program established
21 under this chapter [~~Section 469.002~~], the commissioners court of a
22 county or a court may use other drug awareness or drug and alcohol
23 driving awareness programs to treat persons convicted of drug or
24 alcohol related offenses.

25 SECTION 7. Chapter 469, Health and Safety Code, is amended
26 by adding Sections 469.0025, 469.005, 469.008, and 469.009 to read
27 as follows:

1 Sec. 469.0025. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The
2 commissioners courts of three or more counties, or the governing
3 bodies of three or more municipalities, may elect to establish a
4 regional drug court program under this chapter for the
5 participating counties or municipalities.

6 (b) For purposes of this chapter, each county or
7 municipality that elects to establish a regional drug court program
8 under this section is considered to have established the program
9 and is entitled to retain fees under Article 102.0178, Code of
10 Criminal Procedure, in the same manner as if the county or
11 municipality had established a drug court program without
12 participating in a regional program.

13 Sec. 469.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN
14 INTOXICATION OFFENSES. (a) The commissioners court of a county may
15 establish under this chapter a drug court program exclusively for
16 persons arrested for, charged with, or convicted of an offense
17 involving the operation of a motor vehicle while intoxicated.

18 (b) A county that establishes a drug court program under
19 this chapter but does not establish a separate program under this
20 section must employ procedures designed to ensure that a person
21 arrested for, charged with, or convicted of a second or subsequent
22 offense involving the operation of a motor vehicle while
23 intoxicated participates in the county's existing drug court
24 program.

25 Sec. 469.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
26 REQUIREMENT. (a) Notwithstanding Sections 13 and 16, Article
27 42.12, Code of Criminal Procedure, to encourage participation in a

1 drug court program established under this chapter, the judge or
2 magistrate administering the program may suspend any requirement
3 that, as a condition of community supervision, a participant in the
4 program work a specified number of hours at a community service
5 project or projects.

6 (b) On a participant's successful completion of a drug court
7 program, a judge or magistrate may excuse the participant from any
8 condition of community supervision previously suspended under
9 Subsection (a).

10 Sec. 469.009. OCCUPATIONAL DRIVER'S LICENSE.
11 Notwithstanding Section 521.242, Transportation Code, if a
12 participant's driver's license has been suspended as a result of an
13 alcohol-related or drug-related enforcement contact, as defined by
14 Section 524.001, Transportation Code, or as a result of a
15 conviction under Section 49.04, 49.07, or 49.08, Penal Code, the
16 judge or magistrate administering a drug court program under this
17 chapter may order that an occupational license be issued to the
18 participant. An order issued under this section is subject to
19 Sections 521.248-521.252, Transportation Code, except that any
20 reference to a petition under Section 521.242 of that code does not
21 apply.

22 SECTION 8. Subchapter A, Chapter 102, Code of Criminal
23 Procedure, is amended by adding Article 102.0178 to read as
24 follows:

25 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
26 DRUG CONVICTIONS. (a) In addition to other costs on conviction
27 imposed by this chapter, a person shall pay \$50 as a court cost on

1 conviction of an offense punishable as a Class B misdemeanor or any
2 higher category of offense under:

3 (1) Chapter 49, Penal Code; or

4 (2) Chapter 481, Health and Safety Code.

5 (b) For purposes of this article, a person is considered to
6 have been convicted if:

7 (1) a sentence is imposed; or

8 (2) the defendant receives community supervision or
9 deferred adjudication.

10 (c) Court costs under this article are collected in the same
11 manner as other fines or costs. An officer collecting the costs
12 shall keep separate records of the funds collected as costs under
13 this article and shall deposit the funds in the county treasury, as
14 appropriate.

15 (d) The custodian of a county treasury shall:

16 (1) keep records of the amount of funds on deposit
17 collected under this article; and

18 (2) except as provided by Subsection (e), send to the
19 comptroller before the last day of the first month following each
20 calendar quarter the funds collected under this article during the
21 preceding quarter.

22 (e) A county is entitled to:

23 (1) if the custodian of the county treasury complies
24 with Subsection (d), retain 10 percent of the funds collected under
25 this article by an officer of the county during the calendar quarter
26 as a service fee; and

27 (2) if the county has established a drug court program

1 or establishes a drug court program before the expiration of the
2 calendar quarter, retain in addition to the 10 percent authorized
3 by Subdivision (1) another 50 percent of the funds collected under
4 this article by an officer of the county during the calendar quarter
5 to be used exclusively for the development and maintenance of drug
6 court programs operated within the county.

7 (f) If no funds due as costs under this article are
8 deposited in a county treasury in a calendar quarter, the custodian
9 of the treasury shall file the report required for the quarter in
10 the regular manner and must state that no funds were collected.

11 (g) The comptroller shall deposit the funds received under
12 this article to the credit of the drug court account in the general
13 revenue fund to help fund drug court programs established under
14 Chapter 469, Health and Safety Code. The legislature shall
15 appropriate money from the account solely to the criminal justice
16 division of the governor's office for distribution to drug court
17 programs that apply for the money.

18 (h) Funds collected under this article are subject to audit
19 by the comptroller.

20 SECTION 9. Chapter 54, Government Code, is amended by
21 adding Subchapter GG to read as follows:

22 SUBCHAPTER GG. MAGISTRATES FOR DRUG COURT PROGRAMS

23 Sec. 54.1801. DEFINITION. In this subchapter, "drug court"
24 has the meaning assigned by Section 469.001, Health and Safety
25 Code.

26 Sec. 54.1802. APPLICABILITY OF SUBCHAPTER. This subchapter
27 applies to each district court and statutory county court with

1 criminal jurisdiction in this state. If a provision of this
2 subchapter conflicts with a specific provision for a particular
3 district court or statutory county court, the specific provision
4 controls.

5 Sec. 54.1803. APPOINTMENT. (a) The judges of the district
6 courts of a county hearing criminal cases and the judges of the
7 statutory county courts with criminal jurisdiction in a county,
8 with the consent and approval of the commissioners court of the
9 county, may appoint the number of magistrates set by the
10 commissioners court to perform the duties associated with the
11 administration of drug courts as authorized by this subchapter.

12 (b) Each magistrate's appointment must be made with the
13 approval of the majority of the district court or statutory county
14 court judges described in Subsection (a), as applicable.

15 (c) A magistrate appointed under this section serves at the
16 will of a majority of the appointing judges.

17 Sec. 54.1804. QUALIFICATIONS. A magistrate must:

18 (1) be a resident of this state and of the county in
19 which the magistrate is appointed to serve under this subchapter;
20 and

21 (2) have been licensed to practice law in this state
22 for at least four years.

23 Sec. 54.1805. COMPENSATION. A magistrate is entitled to
24 the salary determined by the county commissioners court.

25 Sec. 54.1806. JUDICIAL IMMUNITY. A magistrate has the same
26 judicial immunity as a judge of a district court or statutory county
27 court appointing the magistrate.

1 Sec. 54.1807. PROCEEDINGS THAT MAY BE REFERRED. (a) A
2 district judge or judge of a statutory county court with criminal
3 jurisdiction may refer to a magistrate a criminal case for drug
4 court proceedings.

5 (b) A magistrate may not preside over a contested trial on
6 the merits, regardless of whether the trial is before a jury.

7 Sec. 54.1808. ORDER OF REFERRAL. (a) To refer one or more
8 cases to a drug court magistrate, a district judge or judge of a
9 statutory county court with criminal jurisdiction must issue an
10 order of referral specifying the magistrate's duties.

11 (b) An order of referral may:

12 (1) limit the powers of the magistrate and direct the
13 magistrate to report on specific issues and perform particular
14 acts;

15 (2) set the time and place for the hearing;

16 (3) provide a date for filing the magistrate's
17 findings;

18 (4) designate proceedings for more than one case over
19 which the magistrate shall preside; and

20 (5) set forth general powers and limitations of
21 authority of the magistrate applicable to any case referred.

22 Sec. 54.1809. POWERS. Except as limited by an order of
23 referral, a magistrate to whom a drug court case is referred may
24 perform any act and take any measure necessary and proper for the
25 efficient performance of the duties assigned by the district or
26 statutory county court judge.

27 SECTION 10. Subchapter B, Chapter 102, Government Code, is

1 amended by adding Section 102.0215 to read as follows:

2 Sec. 102.0215. ADDITIONAL COURT COSTS ON CONVICTION: CODE
3 OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay
4 under the Code of Criminal Procedure, in addition to all other
5 costs, costs attendant to convictions under Chapter 49, Penal Code,
6 and under Chapter 481, Health and Safety Code, to help fund drug
7 court programs established under Chapter 469, Health and Safety
8 Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

9 SECTION 11. (a) Except as otherwise provided by this
10 section, the change in law made by this Act in amending Chapter 469,
11 Health and Safety Code, applies to a defendant who enters a drug
12 court program under Chapter 469, Health and Safety Code, regardless
13 of whether the defendant committed the offense for which the
14 defendant enters the program before, on, or after the effective
15 date of this Act.

16 (b) The commissioners court of a county required under
17 Section 469.006(a), Health and Safety Code, as amended by this Act,
18 to establish a drug court program shall establish the program not
19 later than the later of:

20 (1) September 1, 2008; or

21 (2) the first anniversary of the initial date on which
22 the federal census indicates that the county's population exceeds
23 200,000.

24 (c) The change in law made by this Act in adding Article
25 102.0178, Code of Criminal Procedure, and Section 102.0215,
26 Government Code, applies only to an offense committed on or after
27 the effective date of this Act. An offense committed before the

1 effective date of this Act is governed by the law in effect when the
2 offense was committed, and the former law is continued in effect for
3 that purpose. For purposes of this subsection, an offense was
4 committed before the effective date of this Act if any element of
5 the offense was committed before that date.

6 SECTION 12. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 530 was passed by the House on April 25, 2007, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 530 on May 21, 2007, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 530 was passed by the Senate, with amendments, on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor