

FIRST REGULAR SESSION

HOUSE BILL NO. 73

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BARNES (Sponsor), DAVIS AND BURLISON (Co-sponsors).

0311H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 478.001, 478.003, and 478.005, RSMo, and to enact in lieu thereof four new sections relating to drug courts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 478.001, 478.003, and 478.005, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 478.001, 478.003, 478.005, and
3 478.008, to read as follows:

478.001. 1. Drug courts may be established by any circuit court pursuant to sections
2 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which
3 stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment
4 of drug court participants. Except for good cause found by the court, a drug court making a
5 referral for substance abuse treatment, when such program will receive state or federal funds in
6 connection with such referral, shall refer the person only to a program which is certified by the
7 department of mental health, unless no appropriate certified treatment program is located within
8 the same county as the drug court. Upon successful completion of the treatment program, the
9 charges, petition or penalty against a drug court participant may be dismissed, reduced or
10 modified. Any fees received by a court from a defendant as payment for substance treatment
11 programs shall not be considered court costs, charges or fines.

12 2. Under sections 478.001 to 478.007, a DWI docket may be established by a circuit
13 court, or any county with a charter form of government and with more than six hundred thousand
14 but fewer than seven hundred thousand inhabitants with a county municipal court established
15 under section 66.010, to provide an alternative for the judicial system to dispose of cases which
16 stem from driving while intoxicated. A drug court commissioner may serve as a commissioner

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 in a DWI court or any other treatment or problem-solving court as designated by the drug court
18 coordinating commission. [Drug court commissioners may serve in counties other than the
19 county they are appointed upon agreement by the presiding judge of that circuit and assignment
20 by the supreme court.]

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court
2 may designate a judge to hear cases arising in the circuit subject to the provisions of sections
3 478.001 to 478.007. In lieu thereof and subject to appropriations or other funds available for
4 such purpose, a majority of the judges of the circuit court may appoint a person or persons to act
5 as drug court commissioners. Each commissioner shall be appointed for a term of four years,
6 but may be removed at any time by a majority of the judges of the circuit court. The
7 qualifications and compensation of the commissioner shall be the same as that of an associate
8 circuit judge. If the compensation of a commissioner appointed pursuant to this section is
9 provided from other than state funds, the source of such fund shall pay to and reimburse the state
10 for the actual costs of the salary and benefits of the commissioner. The commissioner shall have
11 all the powers and duties of a circuit judge, except that any order, judgment or decree of the
12 commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of
13 record entered within the time the judge could set aside such order, judgment or decree had the
14 same been made by the judge. If so confirmed, the order, judgment or decree shall have the same
15 effect as if made by the judge on the date of its confirmation. **Drug court commissioners may
16 serve in counties other than the county in which they are appointed upon agreement by the
17 presiding judge of the circuit of such county and assignment by the supreme court.**

478.005. 1. Each circuit court shall establish conditions for referral of proceedings to
2 the drug court. [The defendant in any criminal proceeding accepted by a drug court for
3 disposition shall be a nonviolent person, as determined by the prosecuting attorney.] Any
4 proceeding accepted by the drug court program for disposition shall be upon agreement of the
5 parties.

2. Any statement made by a participant as part of participation in the drug court program,
7 or any report made by the staff of the program, shall not be admissible as evidence against the
8 participant in any criminal, juvenile or civil proceeding. Notwithstanding the foregoing,
9 termination from the drug court program and the reasons for termination may be considered in
10 sentencing or disposition.

3. Notwithstanding any other provision of law to the contrary, drug court staff shall be
12 provided with access to all records of any state or local government agency relevant to the
13 treatment of any program participant. Upon general request, employees of all such agencies shall
14 fully inform a drug court staff of all matters relevant to the treatment of the participant. All such
15 records and reports and the contents thereof shall be treated as closed records and shall not be

16 disclosed to any person outside of the drug court, and shall be maintained by the court in a
17 confidential file not available to the public.

**478.008. 1. Veterans treatment courts may be established by any circuit court, or
2 combination of circuit courts, upon agreement of the presiding judges of such circuit courts
3 under sections 478.001 to 478.008 to provide an alternative for the judicial system to
4 dispose of cases which stem from substance abuse or mental illness of military veterans or
5 current military personnel. A veterans treatment court shall combine judicial supervision,
6 drug testing, and substance abuse and mental health treatment to participants who have
7 served or are currently serving in the United States armed forces.**

**8 2. Except for good cause found by the court, a veterans treatment court shall make
9 a referral for substance abuse or mental health treatment, or a combination of substance
10 abuse and mental health treatment, through the Department of Defense health care, the
11 Veterans Administration, or a community-based treatment program. Community-based
12 programs utilized shall receive state or federal funds in connection with such referral and
13 shall only refer the individual to a program which is certified by the Missouri department
14 of mental health or the United States Veterans Administration, unless no appropriate
15 certified treatment program is located within the same county as the veterans treatment
16 court.**

**17 3. Upon successful completion of a veterans treatment court program, the charges,
18 petition, or penalty against a veterans treatment court participant may be dismissed,
19 reduced, or modified. This subsection shall not apply to any veterans treatment court
20 participant who has previously had the charges, petition, or penalty dismissed, reduced,
21 or modified under the provisions of this subsection. Any fees received by a court from a
22 defendant as payment for substance abuse or mental health treatment programs shall not
23 be considered court costs, charges, or fines.**

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