

Proposed 2013 Session Legislation

Agency Name & No:	Office of the State Public Defender - 61080		
Priority Number:		Filename:	
Short Title:	Specialty Courts		
Agency Contact Person/Phone:	Harry Freebourn, 496-6084		

1. Purpose:
To remove public defenders from the definition of drug court and mental health treatment teams in 46-1-1103 and 46-1-1203

2. Background:
Various treatment and other specialty courts appoint OPD as part of the treatment team. Many of these are post-conviction courts, outside of OPD's mission. In addition, the defender represents multiple clients with no eligibility requirement.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
Unknown level of cost savings.

4. Summary Checklist [Check & complete all that apply]--

<input type="checkbox"/> Housekeeping Only	<input type="checkbox"/> Federal Requirement	<input type="checkbox"/> Audit Recommendation (Audit No.)	<input type="checkbox"/> Major Legislation
<input type="checkbox"/> Anticipated to be Controversial Legislation		<input type="checkbox"/> Bill Draft has been included in Legislation Submittal (if available)	
<input type="checkbox"/> Supports Submitted EPP Item Number:		<input type="checkbox"/> Local Government Fiscal Impact	
<input type="checkbox"/> Increases FTE, or <input type="checkbox"/> Decreases FTE by		List FTE amount and program	
<input type="checkbox"/> Increases Existing Revenue	<input checked="" type="radio"/> Tax <input type="radio"/> Fee <input type="radio"/> Penalty [amount in #3]		
<input type="checkbox"/> Decreases Existing Revenue	<input type="radio"/> Tax <input type="radio"/> Fee <input type="radio"/> Penalty [amount in #3]		
<input type="checkbox"/> Establishes New Revenue	<input checked="" type="radio"/> Tax <input type="radio"/> Fee <input type="radio"/> Penalty [amount in #3]		
<input type="checkbox"/> Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):			
<input type="checkbox"/> Legislation would affect other state agencies (list):			
<input type="checkbox"/> Special Interest Groups Affected (list):			
<input type="checkbox"/> Other:			

46-1-1103. Definitions [drug treatment court]. As used in this part, the following definitions apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this part and would benefit from the provisions of this part.

(2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" includes:

(a) a controlled substance, which is a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession;

(b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by law; or

(c) a harmful substance, which is a misused substance otherwise legal to possess, including alcohol.

(4) "Drug offender" means a person charged with a drug-related offense or an offense in which substance abuse is determined to have been a significant factor in the commission of an offense.

(5) "Drug treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs and to cease criminal behavior associated with drug use and addiction.

(6) "Drug treatment court coordinator" means an individual who, under the direction of the drug treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the drug treatment court.

(7) "Drug treatment court team" means a group of individuals appointed by the drug treatment court that may consist of the following members:

(a) the judge, which may include a magistrate or other hearing officer;

(b) the prosecutor;

(c) the ~~public defender or~~ defense attorney;

(d) a law enforcement officer;

(e) the drug treatment court coordinator;

(f) a probation and parole officer;

(g) substance abuse treatment providers;

(h) a representative from the department of public health and human services; and

(i) any other person selected by the drug treatment court.

(8) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

(9) "Recidivism" means any arrest for a serious offense that results in the filing of a charge and can carry a sentence of 1 or more years.

(10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court in which the drug treatment court team discusses a coordinated response to the drug offender's behavior.

(11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this section.

(12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use.

46-1-1203. Definitions [mental health treatment court]. As used in this part, the following definitions apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is an offender with a mental disorder under this part and would benefit from the provisions of this part.

(2) "Continuum of care" means a seamless and coordinated course of mental health counseling and treatment designed to meet the needs of participants as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" has the meaning provided in 46-1-1103.

(4) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

(5) "Mental health treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant, whose conduct has resulted in a criminal violation, in receiving the needed treatment and life skills to prevent further criminal behavior associated with a mental disorder.

(6) "Mental health treatment court coordinator" means an individual who, under the direction of the mental health treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the mental health treatment court.

(7) "Mental health treatment court team" means a group of individuals appointed by the mental health treatment court that:

(a) must include the following members:

(i) the judge, which may include a magistrate or other hearing officer;

(ii) the prosecutor;

(iii) the ~~public defender or~~ defense attorney;

(iv) the participant; and

(v) the mental health treatment court coordinator; and

(b) may include the following additional members:

(i) a law enforcement officer;

(ii) a probation and parole officer;

(iii) a mental health professional;

(iv) a substance abuse treatment provider;

(v) a representative from the department of public health and human services;

(vi) a mental health advocate; and

(vii) any other person selected by the mental health treatment court.

(8) "Mental health treatment program" means a program designed by the mental health treatment court team to provide prevention, education, and therapy directed toward ending criminal behavior and preventing a return to a condition leading to criminal behavior. Mental health treatment programs may consist of but are not limited to housing assistance, job training, mental health counseling, and psychiatric treatment.

(9) "Participant" means a person charged with a criminal offense or an offense in which a mental disorder, as defined in 53-21-102, is determined to have been a significant factor in the commission of the offense.

(10) "Staff meeting" means the meeting before a participant's appearance in mental health treatment court in which the mental health treatment court team discusses a coordinated response to the participant's behavior.

(11) "Substance abuse" means the illegal or improper consumption of a drug, but does not include inadvertent error in the use of medication.

(12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use.