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## HOUSE BILL NO. 1430

Offered January 23, 2004

A BILL to amend the Code of Virginia by adding a section numbered 18.2-254.1, relating to drug treatment court programs.

Patron—Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-254.1 as follows:

§ 18.2-254.1. Drug Treatment Court Act.

A. This section shall be known and may be cited as the "Drug Treatment Court Act."

B. The General Assembly recognizes that there is a critical need in the Commonwealth for effective treatment programs that reduce the incidence of drug use, drug addiction, family separation due to parental substance abuse, and drug-related crimes. It is the intent of the General Assembly by this section to enhance public safety by facilitating the creation of drug treatment courts as means by which to accomplish this purpose.

C. The goals of drug treatment courts include: (i) reducing drug addition and drug dependency among offenders; (ii) reducing recidivism; (iii) reducing drug-related court workloads; (iv) increasing personal, familial and societal accountability among offenders; and, (v) promoting effective planning and use of resources among the criminal justice system and community agencies.

D. Drug treatment courts are specialized court dockets within the existing structure of Virginia's court system offering judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases. Local officials must complete a recognized planning process before establishing a drug treatment court program.

E. Administrative oversight for implementation of the Drug Treatment Court Act shall be conducted by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing oversight for the distribution of funds for drug treatment courts; (ii) providing technical assistance to drug treatment courts; (iii) providing training for judges who preside over drug treatment courts; (iv) providing training to the providers of administrative, case management, and treatment services to drug treatment courts; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of drug treatment courts in the Commonwealth.

F. A state drug treatment court advisory committee shall be established to (i) evaluate and recommend standards for the planning and implementation of drug treatment courts; (ii) assist in the evaluation of their effectiveness and efficiency; and (iii) encourage and enhance cooperation among agencies that participate in their planning and implementation. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia or his designee and shall include a member of the Judicial Conference of Virginia who presides over a drug treatment court; a district court judge; the Executive Secretary or his designee; the directors of the following executive branch agencies: Department of Criminal Justice Services, Department of Corrections, Department of Criminal Justice Services, Department of Juvenile Justice, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Social Services; a representative of the following entities: community corrections/pretrial services programs, the Commonwealth's Attorney's Association, the Public Defender Commission, the Circuit Court Clerk's Association, the Virginia Sheriff's Association, the Virginia Association of Chiefs of Police, and two representatives designated by the Virginia Drug Court Association.

G. Each jurisdiction or combination of jurisdictions that intend to establish a drug treatment court or continue the operation of an existing one shall establish a local drug treatment court advisory committee. Jurisdictions which establish separate adult and juvenile drug treatment courts may establish an advisory committee for each such court. Each advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the drug treatment court or courts which serve the jurisdiction or combination of jurisdictions. Advisory committee membership shall include, but shall not be limited to the following people or their designees: (i) the drug treatment court judge; (ii) the attorney for the Commonwealth, or, where applicable, the city attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the drug treatment court is located; (v) a representative of the Virginia Department of Corrections, or the Department of Juvenile Justice, or both, from the local office which serves the jurisdiction or

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59 combination of jurisdictions; (vi) a representative of community corrections/pretrial services; (vii) a  
60 local law-enforcement officer; (viii) a representative of the Department of Mental Health, Mental  
61 Retardation, and Substance Abuse Services or a representative of local drug treatment providers; (ix)  
62 the drug court administrator; (x) a representative of the Department of Social Services; (xi) county  
63 administrator or city manager; and (xii) any other people selected by the drug treatment court advisory  
64 committee.

65 H. Each local drug treatment court advisory committee shall establish criteria for the eligibility and  
66 participation of offenders who have been determined to be addicted to or dependent upon drugs. Subject  
67 to the provisions of this section, neither the establishment of a drug treatment court nor anything herein  
68 shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any  
69 criminal case arising therein which he deems advisable to prosecute, except to the extent the  
70 participating attorney for the Commonwealth agrees to do so. As defined in § 17.1-805 or § 19.2-297.1,  
71 adult offenders who have been convicted of a violent criminal offense within the preceding 10 years, or  
72 juvenile offenders who previously have been adjudicated not innocent of any such offense within the  
73 preceding 10 years, shall not be eligible for participation in any drug treatment court established or  
74 continued in operation pursuant to this section.

75 I. Each drug treatment court advisory committee shall establish policies and procedures for the  
76 operation of the court to attain the following goals: (i) effective integration of drug and alcohol  
77 treatment services with criminal justice system case processing; (ii) enhanced public safety through  
78 intensive offender supervision and drug treatment; (iii) prompt identification and placement of eligible  
79 participants; (iv) efficient access to a continuum of alcohol, drug, and related treatment and  
80 rehabilitation services; (v) verified participant abstinence through frequent alcohol and other drug  
81 testing; (vi) prompt response to participants' noncompliance with program requirements through a  
82 coordinated strategy; (vii) ongoing judicial interaction with each drug court participant; (viii) ongoing  
83 monitoring and evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary  
84 education and training in support of program effectiveness and efficiency; and (x) ongoing collaboration  
85 among drug treatment courts, public agencies, and community-based organizations to enhance program  
86 effectiveness and efficiency.

87 J. Participation by an offender in a drug treatment court shall be voluntary and made pursuant only  
88 to a written agreement entered into by and between the offender and the Commonwealth with the  
89 concurrence of the court. When any person pleads guilty pursuant to such written agreement, the court,  
90 upon entry of a judgment of guilt, or, with concurrence of the accused and the Commonwealth, without  
91 entering a judgment of guilt, may defer further proceedings and place the offender in the drug treatment  
92 court upon terms and conditions as set out in the agreement and as may be determined by the local  
93 drug treatment court advisory committee. Upon successful completion, an offender's case shall be  
94 dismissed by the judge.

95 K. Nothing in this section shall preclude the establishment of substance abuse treatment programs  
96 pursuant to the deferred judgment provisions of § 18.2-251.

97 L. Each offender shall contribute to the cost of the substance abuse treatment he receives while  
98 participating in a drug treatment court pursuant to guidelines developed by the drug treatment court  
99 advisory committee.

100 M. Nothing contained in this section shall confer a right or an expectation of a right to treatment for  
101 an offender or be construed as requiring a local drug treatment court advisory committee to accept for  
102 participation every offender.

103 N. The Office of the Executive Secretary shall, with the assistance of the state drug treatment court  
104 advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of the  
105 effectiveness and efficiency of all local drug treatment courts. A report of these evaluations shall be  
106 submitted to the General Assembly by December 1 of each year. Each local drug treatment court  
107 advisory committee shall submit evaluative reports to the Office of the Executive Secretary as requested.