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SENATE BILL NO. 1227

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 30, 2017)

(Patron Prior to Substitute—Senator Barker)

A *BILL to amend and reenact § 18.2-254.1 of the Code of Virginia, relating to the Drug Treatment Court Act; eligibility.*

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-254.1 of the Code of Virginia is amended and reenacted 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 addiction 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 Corrections, Department of Criminal Justice Services, Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department of Social Services; a representative of the following entities: a local community-based probation and pretrial services agency, the Commonwealth's Attorney's Association, the Virginia Indigent Defense Commission, the Circuit Court Clerk's Association, the Virginia Sheriff's Association, the Virginia Association of Chiefs of Police, the Commission on VASAP, 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 that 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 that 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 or county 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 combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of

60 Behavioral Health and Developmental Services or a representative of local drug treatment providers; (ix)
61 the drug court administrator; (x) a representative of the Department of Social Services; (xi) county
62 administrator or city manager; and (xii) any other people selected by the drug treatment court advisory
63 committee.

64 H. Each local drug treatment court advisory committee shall establish criteria for the eligibility and
65 participation of offenders who have been determined to be addicted to or dependent upon drugs. Subject
66 to the provisions of this section, neither the establishment of a drug treatment court nor anything herein
67 shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any
68 criminal case arising therein which he deems advisable to prosecute, except to the extent the
69 participating attorney for the Commonwealth agrees to do so. ~~As defined in § 17.1-805 or 19.2-297.1,~~
70 ~~adult~~ *Adult* offenders who have been convicted of a violent ~~criminal~~ *felony* offense *as defined in*
71 *§ 17.1-805, except a conviction under § 18.2-92 punishable as a Class 6 felony, or an act of violence as*
72 *defined in § 19.2-297.1* within the preceding 10 years, or juvenile offenders who previously have been
73 adjudicated not innocent of any such offense *or act of violence* within the preceding 10 years, shall not
74 be eligible for participation in any drug treatment court established or continued in operation pursuant to
75 this section.

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

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

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

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

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

103 O. Notwithstanding any other provision of this section, no drug treatment court shall be established
104 subsequent to March 1, 2004, unless the jurisdiction or jurisdictions intending or proposing to establish
105 such court have been specifically granted permission under the Code of Virginia to establish such court.
106 The provisions of this subsection shall not apply to any drug treatment court established on or before
107 March 1, 2004, and operational as of July 1, 2004.

108 P. Subject to the requirements and conditions established by the state Drug Treatment Court
109 Advisory Committee, there shall be established a drug treatment court in the following jurisdictions: the
110 City of Chesapeake and the City of Newport News.

111 Q. Subject to the requirements and conditions established by the state Drug Treatment Court
112 Advisory Committee, there shall be established a drug treatment court in the Juvenile and Domestic
113 Relations District Court for the County of Franklin, provided that such court is funded solely through
114 local sources.

115 R. Subject to the requirements and conditions established by the state Drug Treatment Court
116 Advisory Committee, there shall be established a drug treatment court in the City of Bristol and the
117 County of Tazewell, provided that the court is funded within existing state and local appropriations.