

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 130

An Act to amend and reenact §§ 18.2-251.02 and 18.2-254.1 of the Code of Virginia, relating to Drug Treatment Court Act; name change.

[S 725]

Approved March 20, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-251.02 and 18.2-254.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which shall consist of moneys received from fees imposed on certain drug offense convictions pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275. All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of ~~drug treatment~~ recovery court programs.

§ 18.2-254.1. Recovery Court Act.

A. This section shall be known and may be cited as the "~~Drug Treatment~~ Recovery 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~~ recovery courts as means by which to accomplish this purpose.

C. The goals of ~~drug treatment~~ recovery 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~~ Recovery 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~~ recovery court program.

E. Administrative oversight for implementation of the ~~Drug Treatment~~ Recovery 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~~ recovery courts; (ii) providing technical assistance to ~~drug treatment~~ recovery courts; (iii) providing training for judges who preside over ~~drug treatment~~ recovery courts; (iv) providing training to the providers of administrative, case management, and treatment services to ~~drug treatment~~ recovery courts; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of ~~drug treatment~~ recovery courts in the Commonwealth.

F. A ~~The state drug treatment court advisory committee~~ Recovery Court Advisory Committee shall be established to (i) evaluate and recommend standards for the planning and implementation of ~~drug treatment~~ recovery 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~~ recovery 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 recovery~~ court or continue the operation of an existing one shall establish a local ~~drug treatment recovery~~ court advisory committee. Jurisdictions that establish separate adult and juvenile ~~drug treatment recovery~~ 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 recovery~~ 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 recovery~~ 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 recovery~~ 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 Behavioral Health and Developmental Services or a representative of local drug treatment providers; (ix) the ~~drug recovery~~ court administrator; (x) a representative of the Department of Social Services; (xi) county administrator or city manager; and (xii) any other people selected by the ~~drug treatment recovery~~ court advisory committee.

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

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

J. Participation by an offender in a ~~drug treatment recovery~~ court shall be voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with the concurrence of the court.

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

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

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

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

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

P. Subject to the requirements and conditions established by the state *Drug Treatment Recovery Court Advisory Committee*, there shall be established a ~~drug treatment recovery~~ court in the following

jurisdictions: the City of Chesapeake and the City of Newport News.

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

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

2. That the Supreme Court of Virginia shall rename the state Drug Treatment Court Advisory Committee as the state Recovery Court Advisory Committee. Any requirements and conditions established by the state Drug Treatment Court Advisory Committee shall continue to exist under the state Recovery Court Advisory Committee.