An Act

ENROLLED HOUSE
BILL NO. 3158

By: Osborn, Faught and Cox of the House

and

Justice of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 471.6, as last amended by Section 2, Chapter 290, O.S.L. 2009 (22 O.S. Supp. 2009, Section 471.6), which relates to the Oklahoma Drug Court Act; authorizing extension of supervision period; limiting time for extension; prohibiting certain expenditures; requiring evaluations; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2001, Section 471.6, as last amended by Section 2, Chapter 290, O.S.L. 2009 (22 O.S. Supp. 2009, Section 471.6), is amended to read as follows:

Section 471.6 A. The drug court judge shall conduct a hearing as required by subsection E of Section 471.4 of this title to determine final eligibility by considering:

1. Whether or not the offender voluntarily consents to the program requirements;

2. Whether or not to accept the offender based upon the findings and recommendations of the drug court investigation authorized by Section 471.4 of this title;

3. Whether or not there is a written plea agreement, and if so, whether the terms and conditions of the written negotiated plea between the district attorney, the defense attorney, and the

offender are appropriate and consistent with the penalty provisions and conditions of other similar cases;

4. Whether or not there is an appropriate treatment program available to the offender and whether or not there is a recommended treatment plan; and

5. Any information relevant to determining eligibility; provided, however, an offender shall not be denied admittance to any drug court program based upon an inability to pay court costs or other costs or fees.

B. At the hearing to determine final eligibility for the drug court program, the judge shall not grant any admission of any offender to the program when:

1. The required treatment plan and plea agreement have not been completed;

2. The program funding or availability of treatment has been exhausted;

3. The treatment program is unwilling to accept the offender;

4. The offender was ineligible for consideration by the nature of a violent offense at the time of arrest, and the charge has been modified to meet the eligibility criteria of the program; or

5. The offender is inappropriate for admission to the program, in the discretion of the judge.

C. At the final eligibility hearing, if evidence is presented that was not discovered by the drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional criminal prosecution, or to require further negotiations of the plea or punishment provisions. The decision of the judge for or against eligibility and admission shall be final.

D. When the court accepts the treatment plan with the written plea agreement, the offender, upon entering the plea as agreed by the parties, shall be ordered and escorted immediately into the program. The offender must have voluntarily signed the necessary

court documents before the offender may be admitted to treatment. The court documents shall include:

1. Waiver of the offender's rights to speedy trial;

2. A written plea agreement which sets forth the offense charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program; provided, however, incarceration shall be prohibited when the offender completes the treatment program;

3. A written treatment plan which is subject to modification at any time during the program; and

4. A written performance contract requiring the offender to enter the treatment program as directed by the court and participate until completion, withdrawal, or removal by the court.

E. If admission into the drug court program is denied, the criminal case shall be returned to the traditional criminal docket and shall proceed as provided for any other criminal case.

F. At the time an offender is admitted to the drug court program, any bail or undertaking on behalf of the offender shall be exonerated.

G. The period of time during which an offender may participate in the active treatment portion of the drug court program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following the treatment portion of the program. The period of supervision may be extended by order of the court for not more than six (6) months. No treatment dollars shall be expended on the offender during the extended period of supervision. If the court orders that the period of supervision shall be extended, the drug court judge, district attorney, the attorney for the offender, and the supervising staff for the drug court program shall evaluate the appropriateness of continued supervision on a quarterly basis. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be

designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

H. The drug court judge shall order the offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed Twenty Dollars ($20.00) per month, and necessary supervision fees, unless the offender is indigent. The drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the court's order for payment. User fees shall be set by the drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers. The court clerk shall collect all other costs and fees ordered. The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Department of Mental Health and Substance Abuse Services' Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall any court order for costs and fees be limited by any term of probation, parole, supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the offender until fully paid. Offenders who have not fully paid all costs and fees pursuant to court order but who have otherwise successfully completed the drug court program shall not be counted as an active drug court participant for purposes of drug court contracts or program participant numbers.

I. Notwithstanding any other provision of law, if the driving privileges of the offender have been suspended, revoked, cancelled or denied by the Department of Public Safety and if the drug court judge determines that no other means of transportation for the offender is available, the drug court judge may enter a written order requiring the Department of Public Safety to stay any and all such actions against the Class D driving privileges of the offender; provided, the stay shall not be construed to grant driving privileges to an offender who has not been issued a driver license by the Department or whose Oklahoma driver license has expired, in which case the offender shall be required to apply for and be found eligible for a driver license, pass all examinations, if applicable,

and pay all statutory driver license issuance or renewal fees. The offender shall provide proof of insurance to the drug court judge prior to the judge ordering a stay of any driver license suspension, revocation, cancellation, or denial.

SECTION 2. This act shall become effective November 1, 2010.

Passed the House of Representatives the 4th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 12th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 5th

day of May, **20**10,

at 1:15 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 10th **day of** May, **20**10, **at** 8:04 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

11th **day of** May, **20**10,

at 11:52 **o'clock** A. **M.**

By: