

GOVERNMENT CODE
TITLE 2. JUDICIAL BRANCH
SUBTITLE K. SPECIALTY COURTS
CHAPTER 123. DRUG COURT PROGRAMS

Sec. 123.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

(b) If a defendant successfully completes a drug court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition and whether issuance of the order is in the best interest of justice,

the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, as if the defendant had received a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of an offense listed in Article 42A.054, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(2) is not convicted for any felony offense between the date on which the defendant successfully completed the program and the second anniversary of that date.

(c) Notwithstanding Subsection (b), a defendant is not entitled to petition the court for an order of nondisclosure following successful completion of a drug court program if the defendant's entry into the program arose as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 1, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.38, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 19, eff. September 1, 2015.

Sec. 123.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county or governing body of a municipality may establish the following types of drug court programs:

(1) drug courts for persons arrested for, charged with, or convicted of:

(A) an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense and the offense did not involve:

(i) carrying, possessing, or using a firearm or other dangerous weapon;

(ii) the use of force against the person of another; or

(iii) the death of or serious bodily injury to another;

(2) drug courts for juveniles detained for, taken into custody for, or adjudicated as having engaged in:

(A) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which an element of the conduct is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the conduct and the conduct did not involve:

(i) carrying, possessing, or using a firearm or other dangerous weapon;

(ii) the use of force against the person of another; or

(iii) the death of or serious bodily injury to another;

(3) reentry drug courts for persons with a demonstrated history of using alcohol or a controlled substance who may benefit from a program designed to facilitate the person's transition and reintegration into the community on release from a state or local correctional facility;

(4) family dependency drug treatment courts for family members involved in a suit affecting the parent-child relationship in which a parent's use of alcohol or a controlled substance is a primary consideration in the outcome of the suit; or

(5) programs for other persons not precisely described by Subdivisions (1)-(4) who may benefit from a program that has the essential characteristics described by Section 123.001.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 2, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Sec. 123.003. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of two or more counties, or the governing bodies of two or more municipalities, may elect to establish a regional drug court program under this chapter for the participating counties or municipalities.

(b) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec. 4.40(29), eff. January 1, 2020.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1359 (S.B. 633), Sec. 1, eff. June 19, 2009.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(29), eff. January 1, 2020.

Sec. 123.004. REIMBURSEMENT FEES. (a) A drug court program established under this chapter may collect from a participant in the program:

(1) a reasonable reimbursement fee for the program not to exceed \$1,000; and

(2) an alcohol or controlled substance testing, counseling, and treatment reimbursement fee in an amount necessary to cover the costs of the testing, counseling, and treatment.

(b) Reimbursement fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 4, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.46, eff. January 1, 2020.

Sec. 123.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN INTOXICATION OFFENSES. (a) The commissioners court of a county may establish under this chapter a drug court program exclusively for persons arrested for, charged with, or convicted of an offense involving the operation of a motor vehicle while intoxicated.

(b) A county that establishes a drug court program under this chapter but does not establish a separate program under this section must employ procedures designed to ensure that a person arrested for, charged with, or convicted of a second or subsequent offense involving the operation of a motor vehicle while intoxicated participates in the county's existing drug court program.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code,

Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Sec. 123.006. PROGRAM IN CERTAIN COUNTIES MANDATORY.

(a) The commissioners court of a county with a population of more than 200,000 shall:

(1) establish a drug court program under Section 123.002(1); and

(2) direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1).

(b) A county required under this section to establish a drug court program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a drug court program under this section only if:

(1) the county receives federal or state funding specifically for that purpose; and

(2) the judge, magistrate, or coordinator receives the verification described by Section 121.002(c)(2).

(d) A county that does not establish a drug court program as required by this section and maintain the program is ineligible to receive from the state:

(1) funds for a community supervision and corrections department; and

(2) grants for substance abuse treatment programs administered by the criminal justice division of the governor's office.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 5, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.31, eff. January 1, 2020.

Sec. 123.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS PROGRAMS. In addition to using a drug court program established under this chapter, the commissioners court of a county or a court may use other drug awareness programs to treat persons convicted of drug or alcohol related offenses.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 6, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. 1560), Sec. 5.62, eff. September 1, 2021.

Sec. 123.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) Notwithstanding Article 42A.304, Code of Criminal Procedure, to encourage participation in a drug court program established under this chapter, the judge or magistrate administering the program may suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project or projects.

(b) On a participant's successful completion of a drug court program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.39, eff. January 1, 2017.

Sec. 123.009. OCCUPATIONAL DRIVER'S LICENSE. Notwithstanding Section 521.242, Transportation Code, if a participant's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined by Section 524.001, Transportation Code, or as a result of a conviction under Section 49.04, 49.07, or 49.08, Penal Code, the judge or magistrate administering a drug court program under this chapter may order that an occupational license be issued to the participant. An order issued under this section is subject to Sections 521.248-521.252, Transportation Code, except that any reference to a petition under Section 521.242 of that code does not apply.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.