

GOVERNMENT CODE

TITLE 2. JUDICIAL BRANCH

SUBTITLE K. SPECIALTY COURTS

CHAPTER 125. MENTAL HEALTH COURT PROGRAMS

Sec. 125.001. MENTAL HEALTH COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "mental health court program" means a program that has the following essential characteristics:

(1) the integration of mental illness treatment services and mental retardation 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 mental illness treatment services and mental retardation services;

(5) ongoing judicial interaction with program participants;

(6) diversion of potentially mentally ill or mentally retarded defendants to needed services as an alternative to subjecting those defendants to the criminal justice system;

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

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

(9) development of partnerships with public agencies and community organizations, including local mental retardation authorities.

(b) If a defendant successfully completes a mental health court program, after notice to the attorney representing the state and a hearing in the mental health court at which that court determines that a dismissal is in the best interest of justice, the mental health court shall provide to the court in which the criminal case is pending information about the dismissal and shall include

all of the information required about the defendant for a petition for expunction under Section 2(b), Article 55.02, Code of Criminal Procedure. The court in which the criminal case is pending shall dismiss the case against the defendant and:

(1) if that trial court is a district court, the court may, with the consent of the attorney representing the state, enter an order of expunction on behalf of the defendant under Section 1a(a-2), Article 55.02, Code of Criminal Procedure; or

(2) if that trial court is not a district court, the court may, with the consent of the attorney representing the state, forward the appropriate dismissal and expunction information to enable a district court with jurisdiction to enter an order of expunction on behalf of the defendant under Section 1a(a-2), Article 55.02, Code of Criminal Procedure.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003. Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 24, eff. June 14, 2019.

Sec. 125.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county may establish a mental health court program for persons who:

(1) have been arrested for or charged with a misdemeanor or felony; and

(2) are suspected by a law enforcement agency or a court of having a mental illness or mental retardation.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1130 (H.B. 2518), Sec. 1, eff. June 18, 2005.

Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.

Sec. 125.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties may elect to establish a regional mental health court program under this chapter for the participating counties.

Added by Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 25, eff. June 14, 2019.

Sec. 125.003. PROGRAM. (a) A mental health court program established under Section 125.002:

(1) may handle all issues arising under Articles 16.22 and 17.032, Code of Criminal Procedure, and Chapter 46B, Code of Criminal Procedure; and

(2) must:

(A) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the mental health court program and while participating in the program;

(B) allow a person, if eligible for the program, to choose whether to proceed through the mental health court program or proceed through the regular criminal justice system;

(C) allow a participant to withdraw from the mental health court program at any time before a trial on the merits has been initiated;

(D) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(E) ensure that the jurisdiction of the mental health court extends at least six months but does not extend beyond the probationary period for the offense charged if the probationary period is longer than six months.

(b) The issues shall be handled by a magistrate, as designated by Article 2.09, Code of Criminal Procedure, who is part of a mental health court program established under Section 125.002.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1130 (H.B. 2518), Sec. 2, eff. June 18, 2005.

Transferred, redesignated and amended from Health and Safety Code,

Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.

Sec. 125.004. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A mental health court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003. Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.

Sec. 125.005. PROGRAM IN CERTAIN COUNTIES MANDATORY.

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

(1) establish a mental health court program under Section 125.002; 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 mental health 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 mental health court program under this section only if:

(1) the county receives federal or state funding specifically for that purpose in an amount sufficient to pay the fund costs of the mental health court program; and

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

(d) A county that is required under this section to establish a mental health court program and fails to establish or to maintain that program is ineligible to receive grant funding from this state or any state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 25,

eff. June 14, 2019.