**South Carolina General Assembly**

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**H. 3768**

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General Bill

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Summary: Drug Court Program Act

**HISTORY OF LEGISLATIVE ACTIONS**

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3/6/2013 House Introduced and read first time ([House Journal‑page 73](file:///h:\HJ%20Archive\2013\03-06-13.docx))

3/6/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 73](file:///h:\HJ%20Archive\2013\03-06-13.docx))

**VERSIONS OF THIS BILL**

[3/6/2013](file:///p:\pprever\2013-14\3768_20130306.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 22, TITLE 17 SO AS TO ENACT THE “DRUG COURT PROGRAM ACT”, TO DIRECT EACH CIRCUIT SOLICITOR TO ESTABLISH A DRUG COURT PROGRAM FOR ADULTS AND JUVENILES, TO PROVIDE CRITERIA FOR ELIGIBILITY OF PERSONS CHARGED WITH NONVIOLENT OFFENSES, TO ALLOW EACH CIRCUIT SOLICITOR TO ESTABLISH AN OFFICE OF DRUG COURT PROGRAM COORDINATOR, TO DIRECT THE COMMISSION ON PROSECUTION COORDINATION TO ESTABLISH A STATE OFFICE OF DRUG COURT COORDINATION, TO PROVIDE FOR FEES FOR PARTICIPATION IN A DRUG COURT PROGRAM, TO PROVIDE FOR ANNUAL REPORTS DETAILING THE ACTIVITIES OF DRUG COURT PROGRAMS TO THE COMMISSION ON PROSECUTION COORDINATION WITH A COPY PROVIDED TO THE SENTENCING REFORM OVERSIGHT COMMITTEE, AND TO PROVIDE FOR THE APPOINTMENT OF DRUG COURT JUDGES AND COMPENSATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly recognizes that drug court programs have proved successful in dealing with substance abuse in the criminal and juvenile justice systems. These programs allow circuit solicitors, within the exercise of their discretion, to permit consenting defendants to complete long‑term, intensive treatment, closely monitored by frequent drug screenings and judicial oversight, as a condition of probation or as an alternative to traditional prosecution. The purpose of this article is to set standards and procedures to facilitate the creation and continuation of these programs across the State, while leaving local jurisdictions the flexibility to tailor individual programs to local needs.

SECTION 2. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 13

Drug Court Program

Section 17‑22‑1310. This article may be cited as the ‘Drug Court Program Act’.

Section 17‑22‑1320. (A) Each circuit solicitor shall establish a drug court program in each respective circuit for adults and juveniles who commit nonviolent offenses. Each circuit’s drug court program must have a presence in each county in the circuit.

(B) The circuit solicitors are specifically endowed with and retain all discretionary powers pursuant to the common law.

(C) A drug court program must be based on the National Association of Drug Court Professionals’ key components and be under the direct supervision and control of the circuit solicitor; however, the circuit solicitor may contract for services with a county or municipality in the circuit and with appropriate service providers.

(D) The South Carolina Commission on Prosecution Coordination shall oversee administrative procedures for the drug court programs including the maintenance and distribution of the designated drug court general fund pursuant to Section 17‑22‑1360.

Section 17‑22‑1330. (A) A person may be considered for a drug court program if he:

(1) is charged with a nonviolent offense, and the court, without entering a judgment of guilt and with the consent of the accused, defers further proceedings and orders participation in the drug court program;

(2) pleads guilty or nolo contendere to, or is found guilty of, a nonviolent offense, and the court, without entering a judgment of guilt and with the consent of the accused, defers further proceedings and orders participation in the drug court program; or

(3) is found guilty of a nonviolent offense and, with the consent of the accused, is placed on probation with successful completion of a drug court program as a condition of probation.

(B) A person may not be considered for a drug court program, if he:

(1) is currently charged with a violent crime as defined in Section 16‑1‑60, or a stalking offense pursuant to Article 17, Chapter 3, Title 16;

(2) has been released from incarceration in the previous five years for a violent crime, as defined in Section 16‑1‑60, or a harassment or stalking offense pursuant to Article 17, Chapter 3, Title 16;

(3) is subject to a restraining order pursuant to the provisions of Article 17, Chapter 3, Title 16 or a valid order of protection pursuant to the provisions of Chapter 4, Title 20; or

(4) has previously participated in a drug court program.

(C) Nothing in this section may be construed to confer upon a person a right to participate in a drug court program.

Section 17‑22‑1340. (A) When a person who entered a drug court program pursuant to Section 17‑22‑1330(A)(1) or (2) successfully completes an adult drug court program and is subject to having the charge or charges dismissed, the circuit solicitor administering the program shall effect a noncriminal disposition, as defined in Section 17‑22‑20, of the nonviolent offense, and there must be no record maintained of the nonviolent offense except by the appropriate drug court program and the Commission on Prosecution Coordination in order to ensure that a person does not benefit from the provisions of this article more than once.

(B) If applicable, the person may apply to the court for an order to destroy all official records relating to his arrest pursuant to the provisions of Section 17‑1‑40.

(C) If a person violates the conditions of a drug court program or elects to leave the program, then the person may be recommended for judicial termination from the program and, if terminated:

(1) a person who entered the program pursuant to Section 17‑22‑1330(A)(1) must have the nonviolent offense reinstated by the circuit solicitor administering the program in the appropriate municipality or county;

(2) a person who entered the program pursuant to Section 17‑22‑1330(A)(2) must have the deferral of proceedings lifted and sentencing imposed; or

(3) a person who entered the program pursuant to Section 17‑22‑1330(A)(3) must have his failure to complete the program reported to the South Carolina Department of Probation, Parole and Pardon Services which may institute proceedings to revoke probation.

Section 17‑22‑1350. (A) Each circuit solicitor may establish an Office of Drug Court Program Coordinator whose responsibility is to assist in the establishment and maintenance of the drug court program.

(B) There is established the Office of Statewide Drug Court Coordinator whose responsibility is to assist the circuit solicitor in each judicial circuit in establishing and maintaining a drug court program, to assist in developing and implementing drug court standards, to assist in developing and conducting training programs for the drug court and related personnel in the solicitors’ offices, and to develop evaluation procedures to ensure timely and accurate collection of data regarding the effectiveness of the respective drug courts. The Office of Statewide Drug Court Coordinator must be within the South Carolina Commission on Prosecution Coordination. The coordinator and such staff as is necessary to assist in the implementation of the provisions of this article must be employed by the South Carolina Commission on Prosecution Coordination. The Office of Statewide Drug Court Coordinator must be funded by an appropriation to the Commission on Prosecution Coordination in the state general appropriations act.

(C) The Office of Statewide Drug Court Coordinator shall base standards, training, and assessment on the National Association of Drug Court Professionals’ key components.

Section 17‑22‑1360. A person ordered to participate in a drug court program shall pay a one hundred fifty‑dollar fee to enroll in a drug court program with the appropriate circuit solicitor’s office. In the circuit solicitor’s discretion, the enrollment fee may be paid in installments. The fee collected must be forwarded to the Commission on Prosecution Coordination for deposit into a designated drug court general fund for the administration of the drug court program as provided in this article. The person also may be subject to additional fees payable to the provider of services including treatment, education, supervision, and any other services provided through the program. However, participation in a drug court program may not be denied due to a person’s inability to pay these fees. If a person is deemed unable to pay, the fees for enrollment, treatment, education, supervision, and other services may be waived or reduced.

Section 17‑22‑1370. (A) Each circuit solicitor’s office shall submit a drug court program annual report, by the first day of August, to the Commission on Prosecution Coordination providing the total number of participants by original nonviolent offenses, the total number of participants that successfully completed the drug court program, the total amount of fees collected, and the total revenue remitted to the municipalities, counties, and the State for the prior fiscal year. The Commission on Prosecution Coordination may establish additional guidelines for the annual reports. The annual reports must be made available for public inspection.

(B) A copy of the annual report required in subsection (A) must be sent to the Sentencing Reform Oversight Committee for evaluation of the diversion programs and treatments being administered in the State by the circuit solicitors, the effectiveness of each program, and to ascertain the need for additional programs, program modifications, or repeal of existing programs. In evaluating the programs and treatments, the Sentencing Reform Oversight Committee may request information on the evidence‑based practices used in each program or treatment to identify offender risks and needs, and the specific interventions employed in each program or treatment to identify criminal risk factors and reduce recidivism.

Section 17‑22‑1380. Each circuit solicitor’s office shall submit to the Commission on Prosecution Coordination necessary identifying information, in compliance with federal law, on each participant for the creation and maintenance of a list of participants in drug court programs. This list is to be used by the commission for the sole purpose of complying with the provisions of Sections 17‑22‑1330(B)(4) and 17‑22‑1340(A). The information collected by the commission may be released only to a circuit solicitor’s office administering the program for the purpose of determining eligibility for a drug court program.

Section 17‑22‑1390. (A) The Chief Justice shall appoint all drug court judges who are subject to any limitations and directives the Chief Justice places upon their service. Drug court judges serve at the pleasure of the Chief Justice. In order to be appointed as a drug court judge, a person must be a member in good standing of the South Carolina Bar, a probate judge, a summary court judge, or an active or retired member of the judiciary in this State who volunteers to preside over a drug court.

(B) An additional salary may not be accepted by an active member of the unified judicial system who volunteers to serve in this capacity; however, nonmembers of the unified judicial system may be compensated on a contractual basis. A uniform compensation range for the nonmembers of the unified judicial system must be set by the Commission on Prosecution Coordination in consultation with the Chief Justice.

(C) Drug court judges are entitled to the same protections from civil liability and immunities as judicial officers of the State.”

SECTION 3. This act takes effect on January 1, 2014.

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