**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 THE ELIGIBILITY OF PERSONS TO BE CONSIDERED FOR A DRUG COURT PROGRAM, TO ALLOW EACH CIRCUIT SOLICITOR TO ESTABLISH AN OFFICE OF DRUG COURT PROGRAM COORDINATOR, TO ESTABLISH AN OFFICE OF STATEWIDE DRUG COURT COORDINATOR WITHIN THE SOUTH CAROLINA COMMISSION ON PROSECUTION 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, AND TO PROVIDE FOR THE APPOINTMENT OF DRUG COURT JUDGES AND THEIR COMPENSATION.

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

SECTION 1. 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 referred to and cited as the ‘Drug Court Program Act’.

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

(B) A drug court program must consist of a multidisciplinary team composed of the following:

(1) at least one drug court judge, as described in Section 17‑22‑1390, appointed by the Chief Justice of the Supreme Court to preside over drug court proceedings within the circuit;

(2) the circuit solicitor or an assistant solicitor;

(3) the defendant’s counsel;

(4) a treatment provider with expertise in the medical field identified to provide the proper plan of care for the defendant;

(5) a law enforcement representative; and

(6) a probation officer.

(C) 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 within the circuit.

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

(E) A drug court program must incorporate the National Association of Drug Court Professionals’ Adult Drug Court Best Practices Standards in order to develop best practices to be utilized by the program, 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. Other treatment court programs shall follow standards or best practices as defined by the National Association of Drug Court Professionals or the United States Department of Justice.

(F) 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 is charged in a criminal case which arises from the use, addiction, dependency, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, other drug, or is ancillary to such conduct prior to the entry of the sentence, if the solicitor consents, as part of the sentence in the case or upon probation revocation proceedings for offenses including, but not limited to:

(1) any drug offense pursuant to Title 44;

(2) burglary in the second degree pursuant to Section 16‑11‑312;

(3) any trespassing, larceny or theft, property, or shoplifting offense; or

(4) any other offense, with the consent of the solicitor, not specifically excluded pursuant to the provisions of subsection (B).

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

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

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

(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.

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

(D) A person who has previously participated in a drug court program, either successfully or unsuccessfully, may be considered for a drug court program prior to the entry of sentence at the discretion of the solicitor or at the discretion of the court for a probation revocation.

(E) The circuit solicitor must provide South Carolina Court Administration with the name and other relevant identifying information of a person referred to the drug court program immediately upon entry into the drug court program. Court Administration must remove the person from the solicitor’s active case roster immediately upon receipt of notice of the person’s entry into the drug court program. Court Administration must establish a separate roster to monitor active drug court participants until the solicitor notifies Court Administration that the participant successfully completed the program or upon notice that the participant did not complete the program at which time the case must be included in the solicitor’s active case roster.

Section 17‑22‑1340. (A) When a person who entered a drug court program 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 offense, and there must be no record maintained of the offense except by the appropriate drug court program and the Commission on Prosecution Coordination. And, similarly, upon completion of an adult drug court program as a condition of probation, the charges must be expunged.

(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, must have the offense reinstated by the circuit solicitor administering the program in the appropriate municipality or county. However, in the case of probation revocation regarding a violation of the conditions of a drug court program or voluntary withdrawal from the program, the judge shall make the final determination as to whether revocation is appropriate.

Section 17‑22‑1350. (A) 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.

(B) The Office of Statewide Drug Court Coordinator shall incorporate standards, training, and assessment on the National Association of Drug Court Professionals’ Adult Drug Court Best Practices Standards in order to develop best practices to be utilized by the program.

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. At 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. A person ordered to participate in a drug court program 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. 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 from original 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.

Section 17‑22‑1380. Each circuit solicitor’s office shall submit to the Commission on Prosecution Coordination the 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 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 that 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 who resides in the circuit, 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 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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