

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS65470-LL-237 (5/1)

Short Title: Intermed. Deferred Pros./Drug Treatment Ct. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH INTERMEDIATE DEFERRED PROSECUTION FOR
THE DRUG TREATMENT COURT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1341(a2) reads as rewritten:

"(a2) Deferred Prosecution for Purpose of Drug Treatment Court Program. – A defendant eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes may be placed on probation if the court finds that prosecution has been deferred by the prosecutor, with the approval of the court, pursuant to a written agreement with the defendant, for the purpose of allowing the defendant to participate in and successfully complete the Drug Treatment Court Program. A defendant who would be eligible for deferred prosecution but for a prior criminal conviction may participate in the Drug Treatment Court Program by executing a local drug treatment court contract, by being placed on supervised probation, and by submitting to any of the following additional conditions the court may require:

- (1) Special probation as defined in G.S. 15A-1351(a);
- (2) Assignment to a residential program;
- (3) House arrest with electronic monitoring;
- (4) Intensive probation; or
- (5) Assignment to a day-reporting center."

SECTION 2. G.S. 7A-796 reads as rewritten:

"§ 7A-796. Local drug treatment court management committee.

Each judicial district choosing to establish a drug treatment court shall form a local drug treatment court management committee, which shall be comprised to assure representation appropriate to the type or types of drug treatment court operations to be conducted in the district and shall consist of persons appointed by the senior resident

1 superior court judge with the concurrence of the chief district court judge and the
2 district attorney for that district, chosen from the following list:

- 3 (1) A judge of the superior court;
- 4 (2) A judge of the district court;
- 5 (3) A district attorney or assistant district attorney;
- 6 (4) A public defender or assistant public defender in judicial districts
7 served by a public defender;
- 8 (5) An attorney representing a county department of social services within
9 the district;
- 10 (6) A representative of the guardian ad litem;
- 11 (7) A member of the private criminal defense bar;
- 12 (8) A member of the private bar who represents respondents in department
13 of social services juvenile matters;
- 14 (9) A clerk of superior court;
- 15 (10) The trial court administrator in judicial districts served by a trial court
16 administrator;
- 17 (11) The director or member of the child welfare services division of a
18 county department of social services within the district;
- 19 (12) The chief juvenile court counselor for the district;
- 20 (13) A probation officer;
- 21 (14) A local law enforcement officer;
- 22 (15) A representative of the local school administrative unit;
- 23 (16) A representative of the local community college;
- 24 (17) A representative of the treatment providers;
- 25 (18) A representative of the area mental health program;
- 26 (19) The local program director provided for in G.S. 7A-798; and
- 27 (20) Any other persons selected by the local management committee.

28 The local drug treatment court management committee shall develop local
29 guidelines and ~~procedures, not inconsistent with the State guidelines,~~ procedures that
30 are necessary for the operation and evaluation of the local drug treatment ~~court.~~ courts
31 in accordance with the National Drug Court Institute's "Ten Key Components" for drug
32 treatment courts and in consultation with the Director of the Administrative Office of
33 the Courts and the Drug Treatment Court Advisory Committee.

34 The senior resident superior court judge and the chief district court judge shall have
35 hiring and appointment authority over drug treatment court personnel and over policy
36 issues, and they shall consult with the local management committee concerning the
37 local drug treatment court policies and procedures.

38 Before seeking to provide case management or court coordination activities to a
39 local drug treatment court program, the Division of Community Corrections or the
40 Treatment Alternatives to Safer Communities (TASC) Program in the Department of
41 Health and Human Services shall provide proof to the satisfaction of the senior resident
42 superior court judge, the chief district court judge, and the local drug treatment court
43 management committee that the local TASC or community corrections office has the
44 interest, the qualified and certified personnel, and the resources to provide the

1 management or coordination being suggested and that the operational and management
2 requirements of the local program will be maintained or improved as a result."

3 **SECTION 3.** G.S. 7A-797 reads as rewritten:

4 "**§ 7A-797. Eligible population; drug treatment court ~~procedures.~~ procedures;**
5 **funding.**

6 (a) The Director of the Administrative Office of the Courts, in conjunction with
7 the State Drug Treatment Court Advisory ~~Committee,~~ Committee and local drug
8 treatment court management committees, shall develop criteria for eligibility and other
9 procedural and substantive guidelines for drug treatment court ~~operation.~~operation in
10 accordance with the National Drug Court Institute's "Ten Key Components" for drug
11 treatment courts.

12 (b) The amount of the allocation received in each judicial district for
13 administration, case management, and treatment shall be proportionate to the percentage
14 of clients served throughout the State unless agreement can be otherwise reached. The
15 senior resident superior court judge, chief district court judge, and district attorney in
16 consultation with the local management committee shall determine the appropriate
17 distribution of the allocation received. Limitations imposed by the Division of Mental
18 Health, Developmental Disabilities, and Substance Abuse Services on other public
19 funds spent for substance abuse treatment shall not apply to treatment provided for Drug
20 Treatment Court Programs."

21 **SECTION 4.** This act is effective when it becomes law.