

SENATE BILL NO. 71

BY SENATOR BROOME AND REPRESENTATIVES BARROW, BILLIOT, WESLEY BISHOP, BROSSETT, BURRELL, COX, DIXON, HUNTER, MORENO AND SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 13:5351 through 5358, relative to mental health court treatment;
4 to provide for a short title; to provide findings; to provide definitions; to provide
5 authority for a mental health court treatment program; to provide for eligibility and
6 procedure; to provide for collaboration with established substance abuse treatment
7 programs; to provide for violations and sanctions; to provide for dismissal from the
8 program; to provide relative to the discharge of criminal charges; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 13:5351 through 5358, is hereby enacted to read as follows:

13 **CHAPTER 33-A. MENTAL HEALTH COURT**

14 **TREATMENT PROGRAMS**

15 **§5351. Short title**

16 **This Chapter shall be known and may be cited as the "Mental Health**
17 **Court Treatment Act".**

18 **§5352. Legislative findings**

19 **A. The Legislature of Louisiana recognizes that a significant percentage**
20 **of criminal defendants have a diagnosable mental illness.**

21 **B. The legislature further recognizes that such mental illnesses tend to**
22 **have a negative effect on the criminal justice system in the state of Louisiana.**

23 **C. The legislature further recognizes that mental illness and substance**
24 **abuse issues co-occur in a substantial percentage of criminal defendants.**

1 D. The legislature further recognizes the critical need for a program
2 within the criminal justice system designed to reduce the number of defendants
3 with either mental illness issues or co-occurring mental illness and substance
4 abuse issues.

5 E. Such programs would also seek to address recidivism percentages
6 among criminal defendants dealing with both mental illness and co-occurring
7 mental illness and substance abuse issues thus reducing the incidence of crimes
8 committed as a result of mental illness and co-occurring mental illness and
9 substance abuse issues.

10 F. It is therefore the intent of the Legislature of Louisiana to provide for
11 the creation of specialized mental health courts with the necessary flexibility to
12 address the issues of criminal defendants with either mental illness or co-
13 occurring mental illness and substance abuse issues.

14 §5353. Definitions

15 For the purposes of this Chapter, the following terms shall have the
16 following meanings, unless the context clearly indicates otherwise:

17 (1) "Mental health court" or "mental health court program" means a
18 structured judicial intervention process for mental health treatment of eligible
19 criminal defendants that includes mental health court professionals, local social
20 programs, and intensive judicial monitoring in support of such defendants.

21 (2) "Mental health court professional" means a member of the mental
22 health court team, including but not limited to a judge, prosecutor, defense
23 attorney, probation officer, coordinator, treatment provider, behavioral health
24 advocate, or case manager.

25 (3) "Post-adjudicatory mental health court program" means a program
26 in which the defendant has pled guilty or has been convicted and the defendant
27 then agrees, with consent of the prosecution, to enter a mental health court
28 program as part of the defendant's criminal sentence.

29 (4) "Co-occurring mental health and substance abuse court program"
30 means a program that, through the participation of professionals with training

1 and experience in treating persons with mental illness issues and co-occurring
2 mental illness and substance abuse issues, addresses the needs of criminal
3 defendants with either mental illness or co-occurring mental health and
4 substance abuse issues.

5 §5354. Authorization

6 Each district court by rule may designate one or more divisions to
7 preside over a mental health treatment court program to which alcohol or drug
8 related offenses are assigned, and may establish a program to be administered
9 by the presiding judge or judges thereof or by an employee designated by the
10 court. The judicial district is authorized to provide funding for any expenses
11 related to the administration and operation of such a mental health court
12 treatment program.

13 §5355. Eligibility and exclusion

14 A. A criminal defendant may be admitted to a mental health court
15 program if all of the following criteria are met:

16 (1) A diagnosis by a qualified mental health professional of mental
17 illness or co-occurring mental illness and substance abuse.

18 (2) Consent of the prosecutor and the court assigned to the criminal
19 defendant's case.

20 (3) Consent of the defendant.

21 B. A criminal defendant may be excluded from a mental health court
22 program if any of the following occurs:

23 (1) The defendant fails to demonstrate a willingness to participate in a
24 recommended mental health court program.

25 (2) The criminal defendant has, within the previous ten years not
26 including incarceration time, been convicted of any one of the following
27 enumerated crimes:

28 (a) First or second degree murder.

29 (b) Aggravated or criminal sexual assault, including sexual assault of a
30 child.

1 (c) Armed robbery.

2 (d) Arson.

3 (e) Stalking.

4 (f) Any crimes of violence involving the discharge of a firearm.

5 §5356. Procedure; screening and assessment

6 A.(1) The court shall require an eligibility screening and an assessment
7 of the defendant.

8 (2) If a valid assessment related to the present charge pending against
9 the defendant has been completed within the previous sixty days, the eligibility
10 and assessment need not be ordered.

11 B. When appropriate, the imposition of execution of sentence shall be
12 postponed while the defendant is enrolled in the treatment program. As long
13 as the defendant complies with the conditions of his agreement, he shall remain
14 on probation. At the conclusion of the period of probation, the district attorney,
15 on advice of the person providing the probationer's treatment and the probation
16 officer, may recommend that the mental health division take one of the
17 following courses of action:

18 (1) That the probationer's probation be revoked and the probationer be
19 sentenced if the probationer has not successfully completed the treatment or has
20 violated one or more of the conditions of his probation; or, if already sentenced,
21 that the probation be revoked and the probationer be remanded to the
22 appropriate custodian for service of that sentence.

23 (2) That the period of probation be extended so that the probationer
24 may continue the program.

25 (3) That the probationer's conviction be set aside and the prosecution
26 dismissed if the probationer has successfully completed all the conditions of his
27 probation and his treatment agreement. The district attorney shall make the
28 final determination as to whether to request revocation, extension or dismissal.

29 C. The judge shall inform the defendant that if the defendant fails to
30 meet the requirements of the mental health court treatment program, eligibility

1 to participate in the program may be revoked. Such revocation would result in
2 the defendant being sentenced.

3 D. The defendant shall execute a written document which shall contain
4 all of the following criteria:

5 (1) An agreement to participate in the mental health court treatment
6 program.

7 (2) An agreement to all terms and conditions of the program, including
8 but not limited to the possibility of sanctions or incarceration for failing to abide
9 by or comply with the terms of the program.

10 E.(1) The court may order a defendant enrolled in a program authorized
11 by this Chapter to complete mental health or substance abuse treatment in an
12 outpatient, inpatient, residential, or jail-based custodial treatment program.

13 (2) Any period of time a defendant shall serve in a jail-based treatment
14 program may not be reduced by the accumulation of good time or other credits.

15 F. The mental health court program may include a regimen of graduated
16 requirements and rewards and sanctions, including but not limited to the
17 following:

18 (1) Fines.

19 (2) Fees.

20 (3) Costs.

21 (4) Restitution.

22 (5) Incarceration of not more than one hundred eighty days.

23 (6) Individual and group therapy.

24 (7) Medication.

25 (8) Supervision of progress.

26 (9) Educational or vocational counseling, as appropriate.

27 (10) Any other reasonable requirements necessary to complete the
28 mental health court program.

29 §5357. Mental health and substance abuse treatment

30 A. The mental health court program may maintain or collaborate with

1 a network of mental health treatment programs and, if the defendant has co-
2 occurring mental illness and substance abuse issues, a network of treatment
3 programs dealing with co-occurring mental illness and substance abuse
4 treatment programs, representing a continuum of treatment options
5 commensurate with the needs of defendants and in accordance with available
6 resources. The mental health court program may designate a court liaison to
7 monitor the progress of defendants in their assigned treatment programs on
8 behalf of the court.

9 B. Any mental illness or substance abuse treatment to which defendants
10 are referred shall be licensed by the state and shall be in compliance with all
11 rules governing such programs operating within the state of Louisiana.

12 C. The mental health court program may, at its discretion, employ
13 additional services or interventions, as it deems necessary on a case by case
14 basis.

15 §5358. Violation; sanctions; dismissal; discharge of criminal charges

16 A. Violations by the defendant. (1) If a court finds, from the evidence
17 presented, including but not limited to the reports or proffers of proof from the
18 mental health court professionals that any of the conditions set forth in
19 Paragraph (2) of this Subsection are met, sanctions may be imposed.

20 (2)(a) The defendant is not performing satisfactorily in the assigned
21 program.

22 (b) The defendant is not benefitting from education, treatment, or
23 rehabilitation.

24 (c) The defendant has engaged in criminal conduct rendering the
25 defendant unsuitable for continuing participation in the program.

26 (d) The defendant has otherwise violated the terms and conditions of the
27 program or of the defendant's sentence.

28 (e) The defendant is for any reason unable to continue participation in
29 the program.

30 B. Sanctions. The court may impose reasonable sanctions under prior

1 written agreement of the defendant, including but not limited to imprisonment
2 or dismissal of the defendant from participation in the program.

3 C.(1) Dismissal from the program. If an individual who has enrolled in
4 a mental health court program violates any of the conditions of his probation
5 or his treatment agreement or appears to be performing unsatisfactorily in the
6 assigned program, or if it appears that the probationer is not benefitting from
7 education, treatment, or rehabilitation, the treatment supervisor, probation
8 officer, or the district attorney may move the court to dismiss the individual
9 from the mental health court program.

10 (2) If the court dismisses the defendant from the mental health court
11 program, the defendant shall be provided with the specific reasons for his
12 dismissal from the program.

13 D. Discharge from criminal charges.

14 Upon successful completion of the terms and conditions of the program,
15 the court may do any of the following:

16 (1) The court may dismiss the original criminal charges against the
17 defendant.

18 (2) The court may successfully terminate the original sentence of the
19 defendant.

20 (3) The court may otherwise discharge the defendant from the program
21 or from any further proceedings against the defendant as may be pending in the
22 original criminal matter.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____